



HUMAN RESOURCE POLICY SEXUAL AND RACIAL HARASSMENT

Policy No: NLMHRER006	Effective Date: 01 April 2008
Approved:	Review Date: 01 April 2009

Notwithstanding the review date herein, this policy shall remain effective until such time as approved otherwise by Council and may be reviewed on an earlier date if necessary, subject to Labour Law Dispensation or operational requirements.

1. SCOPE

This policy should where applicable be read with the Constitution of the Republic of South Africa, Bill of Rights and the Disciplinary Procedure – Collective Agreement. This policy will apply to all employees of Ngwathe.

All employees, job applicants and the community have the right to be treated with dignity.

Sexual harassment in Council will not be permitted or condoned.

2. PREAMBLE

Paragraph 40 of Council's Interim Conditions of Service reads as follows:

“An employee who has a request or a complaint or grievance arising out of the Town Clerk or his representative as the case may be which will set out the nature of the request, or complaint, or grievance which is to be investigated and who is to deal therewith as he deems fit and the relative employee shall be notified as soon as possible of any decision or intended action which shall be in writing, provided that if the employee does not agree with the decision or action to be taken, he can request that the matter be referred to higher authority or the Personnel Committee or the Executive Committee or the Council for further consideration in which event the employee shall be given the opportunity to submit his submissions in writing either personally or through a representative as he may select.”

3. POLICY

- 3.1 To provide guidelines for the protection of sexually and racially harassed employees.

- 3.2 To encourage and promote the development and implementation of policies and procedures that will lead to the creation of a workplace that is free of sexual and racial harassment, where employees respect one another’s integrity, dignity and privacy.

4. STAKEHOLDER ANALYSIS

Role	Responsibility
Municipal Manager / Director Corporate Services (subject to its delegations if any)	
SALGBC / Council	
Line Manager	

Human Resources	
Employee / Labour Representatives	

5. PROCEDURE

Sexual Harassment

5.1 Sexual Harassment is unwanted or unwelcome conduct of a sexual nature and includes, but is not limited to, the following:

5.1.1 Requests for sexual favours, or unwelcome or repeated or flagrant sexual advances, or demeaning verbal or other expressive behaviour of a sexual nature

5.1.2 The unwanted nature of Sexual Harassment distinguishes it from behaviour that is welcome and mutual.

5.1.3 Conduct become, Sexual Harassment if:

5.1.3.1 The behaviour, persisted in, although a single incident of harassment can constitute sexual harassment; and/or

5.1.3.2 The recipient has made it clear that the behaviour is considered offensive; and/or

5.1.3.3 The perpetrator should in the circumstances have known that the behaviour is regarded as unacceptable.

5.2. Principles

- 5.2.1 This Policy will be implemented in compliance with acceptable statutory requirements and is based of fairness and consistency.
- 5.2.2 All employees, job applicants and other persons who have dealings with Ngwathe, have the right to be treated with dignity and respect.
- 5.2.3 Sexual Harassment in the workplace will not be permitted or condoned.
- 5.2.4. Persons who have been subjected to sexual harassment in the workplace have a right to raise a grievance and appropriate action will be taken by Ngwathe.
- 5.2.5 Allegations of sexual harassment will be dealt with seriously, expeditiously, sensitively and confidentially.
- 5.2.6 Employees will be protected against victimisation, retaliation for lodging grievances and from false accusations.

5.3. Forms of Sexual Harassment

Sexual Harassment may include unwelcome physical, verbal or non-verbal conduct, but it is not limited to the examples listed as follows:

- 5.3.1 Physical conduct of a sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes a strip search by or in the presence of the opposite gender.

5.3.2 Verbal forms of sexual harassment include unwelcome innuendo's, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or directed towards them, unwelcome and inappropriate enquiries about a person's sex life, and unwelcome whistling directed at a person or group of persons.

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

5.3.5 Sexual harassment occurs where a supervisor, member of management or co-worker undertakes or attempts to influence the process or employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant, in exchange for sexual favours.

5.3.5 Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to his/her sexual advances, whilst other deserving employees who did not submit themselves to any sexual advances are denied promotions, merit ratings salary increases or other work related benefits.

5.4 Procedures

5.4.1 Sexual Harassment is a sensitive issue and a victim may feel unable to approach the perpetrator, lodging a formal grievance or turn to colleagues for support. Ngwathe has designated the Director: Corporate Services, whom victims may approach for confidential advice and assistance.

5.4.2 Options to solve a problem:

5.4.2.1 There are two options to solve a problem relating to sexual harassment. Either an attempt can be made to resolve the problem in an informal way or a formal procedure can be embarked upon.

5.4.2.2 The employee is under no obligation to accept one or the other option.

5.4.3 Informal Procedure:

5.4.3.1 It may be sufficient for the employee concerned to have the opportunity where he/she can explain to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work. The Director: Corporate Services may facilitate the mediation between the two parties.

5.4.3.2 If the informal approach has not provided a satisfactory outcome or if the case is severe or if the conduct continues, it may be more appropriate to embark upon a formal procedure. Severe cases may include: sexual assault, rape or a strip search.

5.4.4 Formal Procedure:

Where a formal procedure has been chosen by the aggrieved, the attached document must be completed. (Appendix A), and delivered to the Director; Corporate Services. All cases received will be dealt with expeditiously. If a case is not resolved satisfactorily, the issue can be dealt with in terms of the disciplinary procedures.

5.5. Investigation and disciplinary action

Care will be taken during any investigation of a grievance of sexual harassment, that the aggrieved person is not disadvantaged, and that the position of other parties is not prejudiced if the grievance is found to be unwanted.

5.6. Criminal and civil charges

A victim of sexual assault has the right to lodge 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.

5.7 Confidentiality

5.7.1. Ngwathe will 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.

5.7.2 Anonymous complaints will not be entertained or acted upon. The rights of complainants will be protected, as will the rights of those accused.

6. Racial Harassment Policy

6.1 Definitions

- 6.1.1 Race is primarily a social meaning in which individuals are classified into groups (“races”) on the grounds of perceived heritable physical differences.
- 6.1.2 Racism is an intolerance of, and hostility to other people on account of their “race”.
- 6.1.3 Racial prejudice is the belief that a particular “race” (or group of “races”) is inferior to another “race” (or group of “races”) in respect of one, or usually many, qualities or attributes.
- 6.1.4 Racial discrimination occurs when anyone is put at a disadvantage on the grounds of his/her “race” in respect of one or more (usually a whole set of) opportunities and rights in Ngwathe.
- 6.1.5 Racial slurs occur when a vocabulary is used which is recognised to be demeaning or insulting to individuals on account of their “race”.
- 6.1.6 Racial harassment is a social behaviour that is intended to coerce, manipulate, intimidate, or take advantage of persons belonging to a particular “race”, typically but not always in situations where unequal power and authority relations prevail between those employees who harass and those who are harassed.

6.2 Policy

The practises of racism, racial discrimination and racial harassment prevent individuals against whom they are directed from reaching their full potential, and are unacceptable to Ngwathe.

6.2.1 Ngwathe affirms that:

It will work towards the elimination of racism and racial prejudice in its corporate conduct and in the conduct of all its employees; and

It will not tolerate racial slurs or harassment.

It will not tolerate unlawful racial discrimination.

6.3. Remedies

Anyone who feels that he or she is the victim of racial harassment has the right to seek redress without prejudice. The procedure for dealing with complaints has two stages. The first stage is informal and the second formal.

6.3.1 Informal Procedure

6.3.1.1 A complainant may try to resolve the problem using the informal procedure. This involves discussion and/or mediation.

6.3.1.2 A complainant may wish to resolve the problem through discussion: for example, he/she may believe that the harasser is unaware that the behaviour is offensive and unacceptable. The Director: Corporate Services will facilitate the discussion / mediation.

6.3.2 Formal procedure

This will be a grievance and / or disciplinary procedure.

6.4. Confidentiality

6.4.1 Records of complaints filed, action taken to remedy the problem, the names of those involved and the outcome, will be maintained by the Director: Corporate Services.

6.4.2 Anonymous complaints will not be entertained or acted upon. The rights of complainants will be protected, as will the rights of those complained against.

7. **AUTHORITY**

Formulation Policy	:	Municipal Manager
Authorisation Policy	:	Council
Ownership and Maintenance Manager	:	Director Corporate Services

APPENDIX A

SEXUAL HARASSMENT FORM

NAME : _____
EMPLOYEE NUMBER : _____
DEPARTMENT : _____
SECTION : _____
CONTACT NUMBER : _____

1. Brief details of alleged sexual harassment:

EMPLOYEE'S SIGNATURE DATE

ACKNOWLEDGEMENT OF RECEIPT

SIGNATURE DATE

- This form must be delivered to the Director: Corporate Services sealed in an envelope and marked Private and Confidential.