

## DRAKENSTEIN MUNICIPALITY

# SEXUAL HARASSMENT POLICY

### 1. Preamble

The Drakenstein Municipality has developed a policy which will provide a broad framework to sensitise against sexual harassment and manage cases if and when such an unacceptable practice occurs. From the outset it must be emphasised that any form of sexual harassment in the work environment is condemned and will not be tolerated.

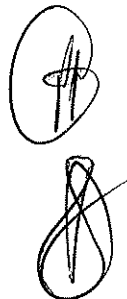
The aim of this policy is to:-

- 1) Create an environment, which upholds personal integrity and freedom, and condemns any form of sexual harassment.
- 2) Discourage and prevent sexual harassment in the workplace.
- 3) Create a procedure to handle such cases.

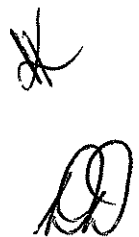
### 2. Policy Statements

- 1) Sexual harassment in the workplace will not be permitted or condoned under any circumstances.
- 2) All employees and other persons who have dealings with the municipality have the right to be treated with dignity.
- 3) The municipality will strive to create and maintain an atmosphere of mutual respect among its employees and will take all reasonable steps in line with the grievance/disciplinary procedure to discourage, prevent and eliminate any form of sexual harassment.
- 4) Persons who have been subjected to sexual harassment in the workplace have a right to lay a complaint and have their allegations dealt with seriously, expeditiously, sensitively and confidentially.
- 5) Employees will be protected against victimisation, retaliation for laying complaints and from false accusations.
- 6) Heads of Department must take all reasonable steps to communicate this Policy to all employees and independent parties (e.g. service providers, contractors and the general public) having dealings with the municipality.

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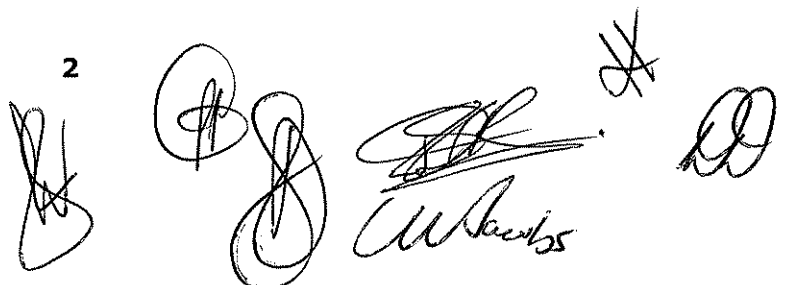
### 3. Application

- 1) The application of this policy includes:-
  1. Councillors
  2. Managers
  3. Supervisors
  4. Employees
  5. Students, Learners and Interns
  6. Clients
  7. Suppliers
  8. Contractors
  9. Job applicants
  10. Seconded staff
  11. Other members of the public having dealings with the municipality
2. A non-employee who is a victim of sexual harassment may lodge a complaint with the municipality if the harassment has taken place in the workplace or in the course of the harasser's employment.
3. An employee, who is sexually harassed by a supplier, contractor or other member of the public having dealings with the municipality, may lodge a complaint with the municipality if the harassment has taken place in the workplace or in the course of the harasser's employment.

### 4. Definition of sexual harassment

- 1) Sexual harassment is unwanted conduct of a sexual nature and is always regarded as serious. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutually acceptable.
- 2) Sexual harassment has nothing to do with affection, flirtation, romance or relationships, when both parties consent freely thereto. Sexual harassment is about coercion or power.
- 3) Sexual harassment appear in many forms of which some forms are listed at clause 5 hereunder. The parties to this agreement in no way pretend that the forms of sexual harassment as listed at clause 5 hereunder is an exhaustive list and recognise that other forms of sexual harassment may occur for which those parties bound by this policy may also be disciplined.
- 4) Sexual attention becomes sexual harassment if:-
  - a) The recipient has made it clear that the behaviour is considered offensive; unwelcome and unwanted or
  - b) The perpetrator should have known that the behaviour is regarded as unacceptable.

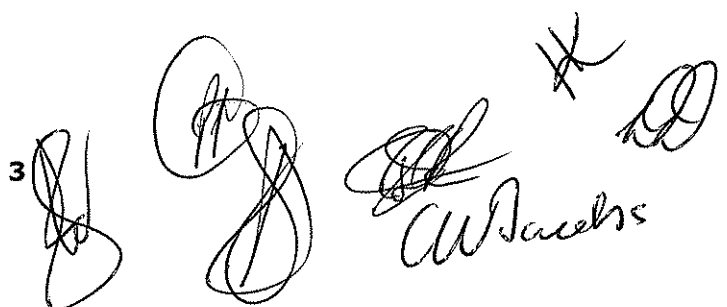
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- c) The unwanted behaviour persists, although a single incident of harassment can constitute sexual harassment.
- 5) Sexual harassment is not limited to the workplace and official working hours but can also include social functions and the private time of the employee.

**5. Forms of sexual harassment**

- 1) Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, and is not limited to the examples listed as follows:-
  - a) 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 sex and indecent exposure.
  - b) Verbal forms of sexual harassment include unwelcome remarks, jokes, innuendos or taunts about a persons body, clothing or sex, suggestions , hints and comments with sexual overtones, sex-related jokes, sexual advances 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 or suggestive noises directed at a person or group of persons.
  - c) Non-verbal forms of sexual harassment include unwelcome or insulting gestures, leering (suggestive staring), the unwelcome display of pornographic or sexually explicit pictures and objects, graffiti, electronic mail, letters and faxes with a sexual connotation, sms-messages or other offensive material, practical jokes of a sexual nature which causes awkwardness or embarrassment.
  - d) Quid pro quo harassment for example occurs when a supervisor, member of management or co-employee, influences or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant, in exchange for sexual favours.
- 2) Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to her/his sexual advances, whilst other deserving employees who do not accept any sexual advances are denied promotions, favourable merit rating or salary increases.
- 3) Sexual harassment can occur in relationships of unequal power or amongst peers. It is possible for women to be harassed by men or other women, and men to be harassed by women or other men.

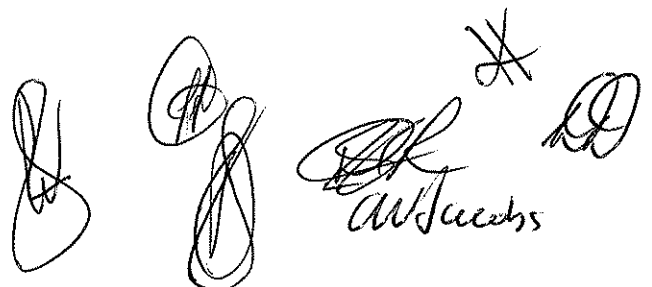
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## 6. Duties of institutional heads / supervisors / managers

- 1) Institutional heads, managers and supervisors are expected to familiarise themselves with this Policy and are required to:-
  - a) create and maintain an environment that will not support or tolerate any form of sexual harassment;
  - b) ensure that staff in their area is familiar with the Policy and as far as is practical ensure that the provisions of this Policy are adhered to;
  - c) this policy should be handed to every new employee as part of her/his appointment documents;
  - d) inform staff that sexual harassment will not be tolerated in the workplace;
  - e) ensure that their own behaviour provides a model of conduct in line with the principles of this Policy;
  - f) take appropriate action in relation to complaints regarding sexual harassment received in the workplace for which they are responsible;
  - g) take appropriate action on any complaints of victimisation that may follow a complaint of sexual harassment;
  - h) in instances where an institutional head, manager, or supervisor observes, or is informed of behaviour that could constitute sexual harassment occurring within their area of responsibility, they should advise the person(s) involved that the behaviour could give offence and that the behaviour should cease immediately; and
  - i) bring this policy to attention of contractors, service providers, consultants, tenderers, etc.

## 7. Options of reporting sexual harassment

1. The collective agreement regarding disciplinary procedures provide for all complaints of misconduct to be reported in writing to the Municipal Manager or his/her authorised representative for investigation.
2. The parties recognise that victims of sexual harassment may want to report incidences of sexual harassment to a person with whom the victim feels comfortable and therefor this policy provides for the reporting of sexual harassment at any of the following officials namely the Municipal Manager, Head of Department, Human Resources Manager, Labour Relations Officer or Social Worker.



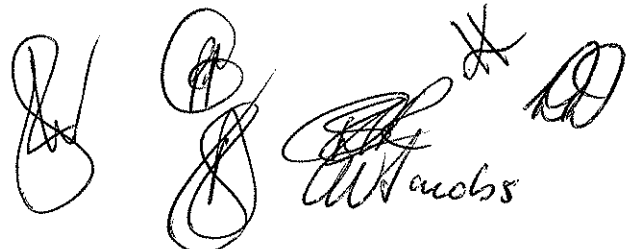
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## 8. Procedures for handling allegations of sexual harassment

- 1) Employees can either resolve the problem of sexual harassment in an informal way or a formal procedure can be embarked upon.
- 2) The employee should not be under any duress to accept one or the other option.
- 3) Where employees of the municipality is concerned as well as under circumstances as referred to under section 3(2) of this policy, the disciplinary procedure in terms of this policy may apply.
- 4) Where section 3(3) of this policy is concerned, the municipality may request the harasser's employer to take appropriate action.

## 9. The informal procedure

1. The informal procedure is appropriate for less serious cases of sexual harassment. Serious cases of sexual harassment, for example rape, sexual assault, criminal conduct of a sexual nature, or other serious forms of sexual harassment should be dealt with in terms of the formal procedure, subject to section 12 of this Policy.
2. The complainant may wish to resolve a less serious complaint of sexual harassment in an informal manner by way of :-
  - a) Approaching the alleged harasser through a meeting arranged by the Municipal Manager, Head of Department, Human Resources Manager, Labour Relations Officer or Social Worker, with the complainant and the alleged harasser as soon as possible. The complainant will be given the opportunity to explain to the alleged harasser that her/his conduct is unwelcome, that it offends her/him and that he/she wants the alleged harasser to refrain from the unwelcome conduct;
  - b) At the meeting referred to in subsection (a), a record of the proceedings are kept for future reference purposes which record must be provided to the Labour Relations Officer for safe keeping and the record is not placed on the files of the parties concerned unless the parties so agree. This record which must take the form of minutes may be used at a later stage to clarify either party's case should the harassment continue;
  - c) It may be necessary for the person presiding over the informal procedure to counsel the perpetrator with regard to her/his behaviour and to take any other measure deemed appropriate by him/herself and the complainant which measures may include:-
    - (i) giving confidential advice, counselling and assistance to victims of sexual harassment;
    - (ii) taking all reasonable steps to facilitate the conciliation and resolution of sexual harassment complaints;
    - (iii) performing an educative role in the elimination of sexual

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harassment;

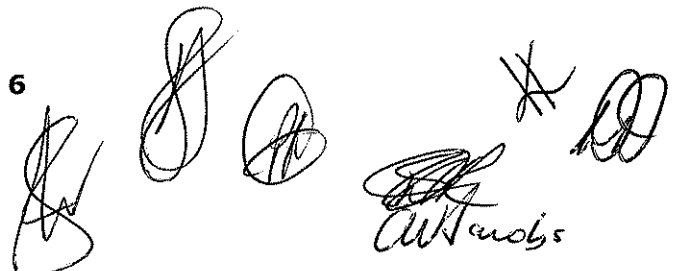
(iv) informally investigating complaints of sexual harassment;

## 10. Formal procedure

- 1) The formal procedure should be implemented in any of the following circumstances:-
  1. Where the sexual harassment is of a serious nature.
  2. The informal procedure has already been applied without success.
  3. The harassment continues after the informal procedure had been followed.
  4. Where the complainant has chosen to follow a formal route.
2. The complainant must lodge a formal complaint in writing to the Municipal Manager, Head of Department, Human Resources Manager, Labour Relations Officer or Social Worker
3. The Municipal Manager, Head of Department, Human Resources Manager, Labour Relations Officer or Social Worker must see thereto that the formal procedures for investigating allegations of misconduct is followed as per the Collective Agreement regarding the Disciplinary Procedure.
4. Should a complaint of alleged sexual harassment not be satisfactorily resolved by the internal procedures set out in subsection (3), either party may within 6 months of the dispute having arisen refer the dispute for conciliation in terms of the normal procedures.
5. Should the dispute remain unresolved, either party may refer the dispute to the Labour Court within 90 days of receipt of the certificate stating that the dispute remains unresolved following the conciliation process.

## 11. Consequences of sexual harassment

1. Persons found guilty of sexual harassment shall be punished in terms of the Collective Agreement regarding Disciplinary Procedure and read together with the Code of Conduct for Municipal Staff Members as contained in schedule 2 of the Local Government Municipal Systems Act, Act no.32 of 2000.
2. Perpetrators of sexual harassment can be dismissed from Council's service if:-
  - a) the sexual harassment is serious; even a single/first incident can constitute a serious sexual harassment offence for which a perpetrator can be dismissed.
  - b) the conduct continues after warnings were given; and



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- c) the perpetrator victimises or retaliates against an employee who in good faith lodges a complaint of sexual harassment.

**12. Criminal and civil charges**

A victim of sexual harassment has the right to institute separate criminal and/or civil proceedings against an alleged perpetrator, and the legal rights of the victim are in no way limited by this Policy.

**13. Confidentiality**

- 1. Employers and employees must as far as possible ensure that complaints about sexual harassment are investigated and handled in a manner which ensures that the identities of the persons involved are kept confidential.
- 2. In cases of sexual harassment, management, employees and all the parties concerned must endeavour to ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the complainant, representative, alleged perpetrator, witnesses and interpreter if required, may be present at the disciplinary enquiry.
- 3. The municipality is required to disclose to either party or to their representatives, such information as may be reasonably necessary to enable the parties to prepare for any proceedings in terms of this Policy.

**14. Implementation Date**

This policy shall come into effect 2 months after its acceptance by the Local Labour Forum and approval by Council. The 2 month period following its approval and prior to the implementation date should be used to familiarise all employees, including supervisors and managers, with the content of this policy.

SIGNED AT PAARL ON THIS 20<sup>TH</sup> DAY OF AUGUST 2007.

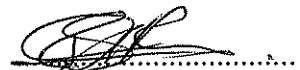
For the EMPLOYER:



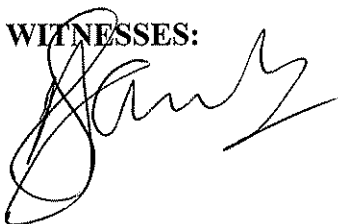
For SAMWU:



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**CHAIRPERSON :**  
**LOCAL LABOUR FORUM**