



**MRTT**

MPUMALANGA REGIONAL  
**TRAINING**  
TRUST

Empowerment Through Training

# **SEXUAL HARRASMENT POLICY**

**POLICY NO: HRM 04**

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## 1. DEFINITION OF CONCEPTS

**“employee”** means any person who is employed by or works for an employer and who receives or is entitled to receive any remuneration or who works under the direction or supervision of an employer or any other person;

**“behaviour”** the way in which one acts or conducts oneself, especially towards others.

**“contractor”** means a person or business which provides goods or services to another entity under terms specified in a contract.

**“quid pro quo harassment”** occurs in the workplace when a manager or other authority figure offers or merely hints that he or she will give the employee something (a raise or a promotion) in return for that employee's satisfaction of a sexual demand.

**sexual harassment**” refers to behaviour that is not welcome, that is personally offensive, and that debilitates morale and, therefore, interferes with work effectiveness. Unwanted behaviour becomes sexual harassment if:

- The recipient has made it clear that the behaviour is considered offensive , and or
- The perpetrator should have known that the behaviour is regarded as unacceptable

**“workplace”** means any place or premises where work and/or training takes place

## **2. ABBREVIATIONS**

<b>CEO</b>	<b>Chief Executive Officer</b>
<b>EEA</b>	<b>Employment Equity Act 55 of 1998</b>
<b>LRA</b>	<b>Labour Relations Act no. 66 of 1995</b>
<b>MRTT</b>	<b>Mpumalanga Regional Training Trust</b>
<b>SMCO</b>	<b>Senior Management Committee</b>
<b>PC</b>	<b>Personal Computer</b>

### **3. INTRODUCTION**

Sexual harassment is a violation of the fundamental human rights to equality, human dignity, privacy, security of employees and fair labour practices. Sexual harassment undermines the basic integrity of the employment relationship and is a direct violation of the values of the Mpumalanga Regional Training Trust.

Sexual harassment is viewed as a very serious offence that may lead to disciplinary action that may include dismissal. However, false and malicious claims of sexual harassment that cannot be substantiated will also be viewed in the same serious light.

### **4. SCOPE OF APPLICATION**

This policy applies to all employees of MRTT, and every employee shall comply with this procedure, in respect of fellow employees, clients, suppliers, and contractors of the MRTT.

### **5. PURPOSE**

The purpose of this policy is to protect the fundamental right to dignity of employees of MRTT and all people doing business with the Company.

### **6. AUTHORISATION / LEGISLATIVE GUIDELINES**

This policy is guided by the:

- Employment Equity Act 55 of 1998
- Constitution of South Africa , 1996
- Labour Relations Act no. 66 of 1995

### **7. BEHAVIOUR CONSTITUTING SEXUAL HARASSMENT**

Sexual harassment includes, but is not limited to the following types of behaviours:

#### **7.1 VERBAL BEHAVIOUR**

- a) Unwelcome innuendoes, suggestions and hints.
- b) Unwelcome sexual advances.
- c) Unwelcome comments with sexual overtones.
- d) Unwelcome sex related jokes or insults.
- e) Unwelcome graphic comments about a person's body made in their presence or directed towards them.
- f) Unwelcome and in-appropriate enquiries about a person's sex life.

- g) Unwelcome jokes that cause awkwardness or embarrassment.
- h) Verbal threats or abuse
- i) Unwelcome telephone calls with sexual overtones.

## **7.2 GESTURES AND OTHER NON-VERBAL BEHAVIOUR**

- a) Unwelcome gestures
- b) Indecent exposure
- c) The unwelcome display of sexual explicit / undesirable pictures and objects.
- d) Persistent and unwelcome flirting.

## **7.3 VISUAL SEXUAL HARASSMENT**

- a) A public display of pornographic or other offensive, derogatory and or sexually explicit pictures, photographs, cartoons drawings, symbols and other material.
- b) Showing of pornographic or sexual explicit movies or slides.
- c) Indecent exposure of private parts in view of others.
- d) Display / sourcing offensive material / jokes on PC have and / or e-mail such material to other employees.

## **7.4 PHYSICAL SEXUAL HARASSMENT BEHAVIOUR**

- a) All unwanted physical contact, ranging from touching to sexual assaults and rape, and includes a strip search by or in the presence of the opposite sex.
- b) Unwanted attempts at, or actual kissing or fondling.

## **7.5 PSYCHOLOGICAL SEXUAL HARASSMENT BEHAVIOUR**

- a) Repeated unwanted social invitations for dinner, drinks or movies.
- b) Soliciting sexual favours
- c) Requiring, directing or suggesting to a subordinate to wear sexy, revealing, or suggestive clothes.

## **7.6 QUID PRO QUO HARASSMENT**

It is also sexual harassment when an employer , supervisor , member of management or co-employee undertakes or attempts to influence the process of employment , promotion , training , disciplined , dismissal , salary increment or other benefits of an employee or job applicant , in exchange for sexual favours .

## **7.7 SEXUAL FAVOURATISM**

It is an offence for a person who is in a position of authority to reward only those who respond to his / her sexual advances, whilst other deserving employees who do not submit themselves to sexual advances are denied training opportunities, merit rating or salary increases.

## **7.8 BEHAVIOUR, WHICH DOES NOT CONSTITUTE SEXUAL HARASSMENT**

The following would not normally constitute sexual harassment:-

- a) Occasional compliments
- b) Flirtatious banter when it is mutually acceptable
- c) Occasional jokes or other behaviours whereby the intent is not meant to be offensive, except where the perpetrator should have known that the behaviour is regarded as unacceptable.

## **8. PROCEDURE**

a) Sexual harassment allegations need not follow the normal grievance procedure and will remain as confidential as possible. Any employee who believes that he or she has been the subject of sexual harassment should report the alleged charge immediately in accordance with the following procedure. All information disclosed pursuant to this procedure will be held in confidence, and will only be disclosed on a need-to-know basis in order to Investigate and resolve the matter.

b) Because the immediate supervisor or Sub-Programme Manager may be alleged to be involved, the complainant may contact the Chief Executive Officer or their Shop Steward to investigate the allegation. This investigation must be done in consultation with Human Resource or by a management assigned investigator.

c) The investigator must assure the complainant that the details that the details of the allegation and the complainant's identity will remain as confidential as possible.

d) The investigator and the complainant should agree on whether the matter should be resolved informally or through a formal disciplinary action. The complainant shall not be pressurized into either dropping or proceeding with the complaint.

### **8.1 THE INFORMAL PROCEDURE**



- a) If the complainant prefers informal action, the assigned investigator will call the accused to a private meeting and advise them of the details of the complaint lodged. The investigator will assure the accused that their identity will remain as confidential as possible. The investigator must give the accused an opportunity to state their case; explain the outcome that the complainant requests (an informal settlement) and advise the accused of the possible consequences if proven guilty of sexual harassment in a formal disciplinary hearing.
- b) The investigator shall again meet with the complainant, advise him/ her of the accused response and, if the complainant is satisfied, invite both parties to meet to consider resolving and settling the matter without the need for formal disciplinary action.
- c) The investigator will assess what support and assistance the complainant may require after settlement.
- d) The role of the investigator is that of a mediator. On being appraised of the allegations, the investigator may of his / her own accord initiate the formal procedures.

## **8.2. THE FORMAL PROCEDURE**

- a) If the matter is not settled, or if the complainant or accused wants a formal disciplinary action, the investigator shall get written statements from both parties. If the allegations are substantial, serious, and there are reasonable prospects of proving the allegations against the accused on a balance of probabilities, the normal disciplinary procedure in respect of a formal disciplinary hearing, shall then be followed
- b) The formal disciplinary hearing will take place in camera , i.e. in private , only the persons directly involved , should attend;
- c) The names of the parties shall remain as confidential as possible.
- d) It is disciplinary offence to victimize or retaliate against an employee who in good faith lodges a grievance of sexual harassment, to pressurize a complainant to drop a complainant of sexual harassment.
- e) In turn it is a disciplinary offence to lay unfounded or unjustified complaints against a fellow employee with the intent to cause malicious harm to them or their reputation.

## 9. CONFIDENTIALITY

a) MRTT ensures that grievances about sexual harassment are investigated and handled in a manner that ensures that the identities of the persons involved are kept as confidential as possible.

b) Management and the parties concerned must ensure confidentiality as far as possible in the disciplinary. 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 inquiry.

c) MRTT 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 internal or external civil or criminal proceedings.

## 10. AMENDMENTS

No amendment shall be made to or any deviation undertaken from the MRTT Sexual Harassment Policy without approval of the Board.

In the event of a need or intent to deviate from the approved policy, a formal disposition document must be prepared stating the nature and the reasons for the proposed departure and be submitted to the CEO, for recommendation and submission to the board for approval.

## 11. POLICY REVIEW

SEXUAL HARASSMENT POLICY	
DATE REVIEWED	29 MARCH 2021
NEXT DATE OF REVIEW	30 MARCH 2023

## 12. POLICY APPROVAL

POLICY APPROVED BY:		SIGNATURE
ACTING CHAIRPERSON OF THE BOARD: <b>MS TE MAWELELE</b>	DATE: 29-03-2021	