



**POLICY ON THE PREVENTION AND ELIMINATION OF HARASSMENT
IN THE PUBLIC SERVICE WORLD OF WORK**

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1. INTRODUCTION

- 1.1 Harassment at work is a worldwide problem recognized as an occupational injury. It is a violation of human rights, and it undermines equality of opportunity. Harassment manifests as unequal power relations and has the potential to cause long-term negative psychological and physical effects on the affected party.
- 1.2 The Labour Relations Act and the Employment Equity Act are the main acts that deal with harassment in the world of work.
- 1.3 The Code of Good Practice on the Prevention Elimination of Harassment in the World of Work (Code) addresses the prevention, elimination, and management of all forms of harassment that pervade the world of work. It is guided by the ILO Convention 190 and its Recommendation concerning the elimination of Violence and Harassment in the World of Work, 2019; the Discrimination (Employment and Occupation) Convention III of 1958 (Convention III), and the ILO Convention 151 relating to Occupational Health and Safety.
- 1.4 The Code reinforces and promotes the development and implementation of policies and procedures that will lead to the creation of a world of work that is free of harassment, where an employer and employee respect one another's integrity, dignity, privacy, and the right to equity in the world of work. This Policy also finds expression from the Protection from Harassment Act no 17 of 2011.
- 1.5 South Africa regards all forms of harassment as a form of unfair discrimination and constitutes a barrier to equity and equality in the world of work. Therefore, all forms of harassment such as sexual harassment; gender-based violence, bullying, racial, ethnic, or social origin harassment must be eliminated. It must be acknowledged that harassment may include physical abuse, psychological abuse, emotional abuse, and sexual abuse.
- 1.6 Harassment also includes the use of physical force or power, threatened or actual, against another person or against an employee or group of employees, which either results in or has a high likelihood of resulting in social injustice, economic harm, injury, death, physical and psychological harm, mal-development, or deprivation.
- 1.7 All forms of harassment against persons living with disabilities, women, men, LGBTQIA+, and other vulnerable groups or persons in the world of work is an abuse of power. Harassment particularly affects workers in the most vulnerable work situations, who have poor access to labour rights such as freedom of association, collective bargaining, decent work, non-discriminatory practices, and access to justice.
- 1.8 The DPSA Gender Equality Strategic Framework for the Public Service provides a wide set of options for the transformation of the world of work premised on the promotion and protection of human dignity and the rights of women. It recognizes the role of government in promoting non-sexism and non-discrimination for employees in the Public Service.

2. POLICY STATEMENT

- 2.1 The South African Constitution protects the right to dignity, equality, and fair labour practices in terms of the Bill of Rights and aims to create a safe working environment free from all forms of harassment. South Africa is committed to the prevention and management of all forms of harassment including discriminatory harassment based on gender, sexual orientation, disability, etc, in the world of work.
- 2.2 The Public Service is obligated to provide a safe, healthy, and amicable working environment and shall take steps to fulfil this obligation by meeting legal obligations in terms of what amounts to fair practice and shall neither permit nor condone harassment.
- 2.3 Consequently, the Government of South Africa is committed to providing a safe environment for all its employees and stakeholders, free from discrimination on any ground and, from violence and harassment. The government upholds a zero-tolerance policy towards any form of harassment or violence in the world of work, commits to treating all incidents seriously, and promptly investigates all allegations of harassment. All responses to allegations including investigations shall be systematic and standardised for all national and provincial departments. Any individual(s) found to have committed harassment of any form will face disciplinary action, up to and including dismissal from employment. All allegations of harassment will be taken seriously and treated with respect and confidentially. Furthermore, retaliation against complainants will not be tolerated as it is another form of harassment.

3. PURPOSE

- 3.1 The purpose of the *Policy on the prevention and elimination of violence and harassment in the public service world of work* is to establish mechanisms for the prevention, elimination, and management of all forms of violence and harassment in the public service world of work. In addition, it provides practical guidance on what constitutes harassment, introduces, standardizes, and/or strengthens practices across all national and provincial departments, and provides uniform formal procedures required for anti-violence and harassment work.

4. OBJECTIVES

4.1 The objectives of the *Policy on the prevention and elimination of violence and harassment in the public service world of work* are to:

- a) Promote a world of work that is free of violence and harassment, sexual favours, intimidation, and victimization, where the employer and employees respect one another's integrity, dignity, privacy, and the right to equality in the world of work.
- b) Provide standardized, systematic, and consistent approaches to the prevention and management of violence and harassment within the public service through standardized procedures and guidance tools.
- c) Protect employees from experiencing or witnessing harassment and provide a sense of security and support by providing employees with a clear understanding of their rights and how to report incidents of violence and harassment without fear of retaliation.
- d) Strengthen confidentiality of violence and harassment cases, to protect related information, and apply sanctions at all levels if needed.
- e) Strengthen response given to harassment cases and ensure consequence management when applicable.
- f) Strengthen monitoring of the application of the Policy and identify violence and harassment trends to take appropriate action.
- g) Strengthen accountability in the management of all forms of harassment in the world of work.

5. GUIDING PRINCIPLES

5.1 The guiding principles of the *Policy on the prevention and elimination of violence and harassment in the public service world of work* are as follows:

- a) Zero tolerance shall be upheld against any form of violence and harassment in the world of work.
- b) The focus will be placed on preventive action against violence and harassment, including counselling for employees.
- c) Employees shall be encouraged to report violence and harassment and, complainants shall be protected against victimization and/or retaliation.
- d) Harassment is a form of discrimination that violates the rights of individuals and undermines the integrity of the employment relationship.

- e) Employers and employees shall work in a safe environment in the world of work that is free of violence and harassment.
- f) Employers and employees shall all respect one another's integrity, dignity, privacy, and the right to equality in the world of work.
- g) Allegations and complaints of violence and harassment shall be responded to promptly and dealt with professionally, seriously, fairly, sensitively, and confidentially.
- h) If proven, violence and harassment offenses shall be sanctioned, and the offender shall be subject to disciplinary measures
- i) False allegations of harassment shall not be tolerated and whoever acts in bad faith will face disciplinary action.
- j) Breach of confidentiality at any level in dealing with complaints, investigations or reports of violence and harassment shall not be tolerated and shall be sanctioned accordingly
- k) All employees of the Public Service must be aware that the violation of this Policy will lead to serious disciplinary action up to and including dismissal.

6. SCOPE OF APPLICATION

- 6.1 The Policy applies to all National Departments and Provincial Administrations as listed under Schedule 1, and Provincial Departments as listed under Schedule 2 of the Public Service Act, No 103 of 1994 (as amended).
- 6.2 While the Public Service has no jurisdiction over third parties who are not employees of the Public Service, the Public Service all people who work in or have dealings with the Public Service to uphold and respect this Policy and other related policies. As far as possible, Service Level Agreement (SLA) entered into with service providers should include the terms of this Policy thus making all service providers who sign SLAs to be deemed to have consented to be subject to this Policy.

7. RELATED LEGISLATIVE FRAMEWORK:

- a) Constitution of the Republic of South Africa, Act No 108 of 1996.
- b) Public Service Act, No. 103 of 1994, as amended.
- c) White Paper on the Transformation of the Public Service, 1995
- d) Labour Relations Act No. 66 of 1995
- e) Employment Equity Act No. 55 of 1998
- f) White Paper on Affirmative Action in the Public Service, 1998
- g) Promotion of Equality and Prevention of Unfair Discrimination Act No 4 of 2000

- h) National Policy Framework for Women's Empowerment and Gender Equality, 2000
- i) Criminal Sexual Offences and Related Matters Amendment Act No 32, 2007
- j) Gender Equality Strategic Framework for the Public Service, 2008
- k) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1995
- l) Beijing Platform for Action, 1995
- m) The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 2003
- n) Protection from Harassment Act No 17, 2011.
- o) Public Service Coordinating Bargaining Council (PSCBC) Res 7 of 2000 as amended by Res 5 of 2001
- p) Compensation for Occupational Injuries and Diseases Act No 130, 1993
- q) Policy & Procedure on Incapacity Leave and Ill Health Retirement (PILIR), 2009
- r) C190 - Violence and Harassment Convention, 2019 (No. 190)
- s) Code of Good Practice on the Prevention and Elimination of Harassment in the World of Work Vol. 681 March 18, 2022

8. DEFINITION

- 8.1 Section 6(3) of the Employment Equity Act (EEA) states that harassment of an employee is a form of unfair discrimination and is prohibited on any one or a combination of grounds of unfair discrimination listed in subsection 6(l) of the EEA.
- 8.2 This Policy uses the definition from the Protection from Harassment Act 17 of defines harassment and sexual harassment as follows:

" **harassment**" means directly or indirectly engaging in conduct that the respondent knows or ought to know that:

- a) causes harm or inspires the reasonable belief that harm may be caused to the complainant or a related person by unreasonably:
 - I. following. watching. pursuing or accosting of the complainant or a related person, or loitering outside of or near the building or place where the complainant or a related person resides, works, carries on business, studies, or happens to be;
 - II. engaging in verbal, electronic, or any other communication aimed at the complainant or a related person, by any means, whether or not conversation ensues; or
 - III. sending, delivering, or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail, or other objects to the complainant or a related person

or leaving them where they will be found by, given to, or brought to the attention of, the complainant or a related person; or

- b) amounts to sexual harassment of the complainant or a related person; **sexual harassment** is unwelcome sexual attention from a person who knows or ought reasonably to know that such attention is unwelcome.

8.3 **Gender, diversity, and vulnerable groups** in the context of this Policy include the following: Women, girls, LGBTQIA+, Disability, Race, Age, Colour, Ethnic origin, Marital status, Place of origin, creed, and other grounds to discriminate against a person.

8.4 **Discrimination** is the unjust or prejudicial treatment of different categories of people based on gender, diversity, or their identities factors (such as groups).

9. FORMS OF HARASSMENT

9.1 Physical Harassment

Threats of or physical attacks are used in physical harassment, which is also known as the world of work violence. They might also be deemed an assault when they go to extremes. Physical actions like shoving with a light-hearted aim can often blur the limits between what is and is not suitable. As a result, it is up to the individual experiencing the behaviour to choose whether it is suitable or threatening

9.2 Sexual Harassment

The following are considered forms of sexual harassment:

- 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.
- b) **Verbal forms** of sexual harassment include unwelcome innuendoes, 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 toward them; unwelcome and inappropriate inquiries about a person's sex life and unwelcome whistling directed at a person or group of persons. Verbal bullying may include threats, shaming, hostile teasing, insults, constant negative judgment, and criticism, or racist, sexist, or LGBTQIA+ phobic language.

- c) **Non-verbal forms** of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
- d) **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 do not submit themselves to any sexual advances are denied promotions, merit ratings, salary increases, or other forms of recognition.
- e) **Quid pro quo sexual harassment** occurs where an owner, employer, supervisor, member of 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. Quid pro quo sexual harassment is an intentional act of sexual harassment which is an abuse of authority by a supervisor or any member of management and or employees who have the power to employ/dismiss or change the working conditions of an employee
- f) **Sextortion** is a form of quid pro quo sexual harassment which is an abuse of authority by a supervisor or any member of management and or employees who have the power to employ/dismiss or change the working conditions of an employee. It has a sexual as well as a corruption component.

9.3 Discriminatory Harassment

The following are considered discriminatory harassment:

- a) Racial Harassment is harassment perpetrated against victims based on their race, ancestry or skin colour, country of origin, or citizenship.
- b) Gender Harassment is a form of harassment based on the victim's gender. This is a form of gender discrimination.
- c) Religious Harassment is a form of harassment that occurs due to the victim's religious beliefs.
- d) Disability-Based Harassment is a form of harassment targeted at disabled individuals. It includes teasing, refusal to accommodate, or patronizing comments.
- e) Sexual orientation-based harassment refers to unwelcome or offensive behaviour directed at an individual because of their actual or perceived sexual orientation.

9.4 Psychological Harassment

This form of harassment, including bullying, harms a person's mental health. Psychological harassment victims frequently experience feelings of being dismissed or belittled on a professional or personal level, or both. Their psychological impact harms not only their professional lives but also their physical and psychological health.

9.5 Bullying

Bullying is a form of harassment and may be characterized as offensive, intimidating, malicious, or insulting behaviour, or misuse of power through means intended to undermine, humiliate, denigrate, or injure the recipient. It has been identified as a form of harassment that is mostly prevalent in the world of work.

Cyberbullying involves the exploitation of the internet and technology to pick on potential victims. Young people are disproportionately affected by online harassment and cyberbullying.

9.6 Retaliation Harassment

It occurs when an individual is harassed to exact retribution for filing a complaint against them or to prevent them from filing a complaint.

10. EMPLOYER'S LIABILITY FOR HARASSMENT CASES

10.1 Section 60 of the Employment Equity Act deals with the liability of the employer. The Head of Department will be liable for the actions of an employee if the Head of Department fails to take corrective measures after an incident of harassment has been reported or come to the employer's attention.

10.2 The Head of Department is liable for medical expenses, assessment, and treatment of an employee who has experienced harassment as it is categorized as an occupational injury by the Compensation for Occupational Injuries & Diseases Act.

10.3 The Head of Department is obliged to take reasonable steps to provide protection measures where needed and ensure confidentiality throughout the processes.

10.4 The Head of Department is obliged to take steps to assist a complainant of harassment to claim compensation accordingly if the incident has resulted in the employee developing a medical condition, e.g. post-traumatic stress disorder.

11. ROLES AND RESPONSIBILITIES

11.1 The Head of Department

The roles and responsibilities of the Head of Department are to:

- a) Communicate this Policy to all employees, through regular awareness-raising, training, and education programs.
- b) Designate a harassment advisor and announce to the department through all communication channels of the department.
- c) Ensure training of managers, and specific staff that are designated or appointed to handle harassment cases.
- d) Allocate trained staff to carry out Investigation and Mediation when required.
- e) Submit a report on harassment cases dealt with to the DPSA on an annual basis, using the appropriate template.
- f) Allocate resources (human and financial) to ensure that awareness-raising and training programs for employees on harassment are implemented.
- g) Ensure that disciplinary measures applied are in line with the Disciplinary Code and Procedures in the Public Service and the Senior Management Handbook.
- h) Regularly monitor compliance with the Policy.
- i) Report cases of harassment to the Compensation Commission in terms of the Compensation for Occupational Injuries and Diseases Act.

**The HOD may delegate their responsibilities to a subordinate, through a formal process, to facilitate operation but remain ultimately responsible.*

11.2 The Individual designated by the Head of Department

- (a) The Head of Department is responsible for the management of all harassment cases, however, they may delegate their responsibilities to a subordinate, through a formal process, to facilitate operation but remain ultimately responsible for the management of harassment in the world of work.

- (b) The individual designated by the Head of Department has the responsibility to:
 - (i) Manage all processes related to violence and harassment as designated by and on behalf of the Head of Department.

11.3 The Harassment Advisor

11.4 The roles and responsibilities of the Harassment Advisor are to:

- a) Serve as the first line of contact to complainants of alleged harassment providing staff neutral sounding board for airing concerns.
- b) Provide consultation services to individuals who have allegedly experienced harassment.
- c) Administer the test for harassment, preliminary assessment for mental distress and security concerns, and provision of advisory services.
- d) Explain the disciplinary procedure and time frames to complainants and respondents in both formal and informal procedures.
- e) Advise the complainant on the appropriate course of action, options, and support available.
- f) Provide guidance (if necessary) on how to complete the appropriate grievance form.
- g) Issue a written notice of complaint to the respondent and explain the protective measures available to the complainant and respondent.
- h) Provide the respondent with a copy of this Policy and any relevant document on disciplinary rules and procedures of the Public Service and the department.
- i) Contribute to the development, coordination, and implementation of educational programs and awareness-raising activities for the prevention and management of harassment in the department.
- j) Advocate for research and other resources on violence and harassment to improve expertise on this issue.
- k) Maintain confidential statistics and narrative reports on all harassment cases reported and handled.
- l) Monitor and submit quarterly reports on all cases reported, resolved, and pending to the Head of Department or the individual designated to act on behalf of the Head Department. Such reports should use non-identifying statistical information to maintain confidentiality.

11.5 The Department of Public Service and Administration (DPSA)

The roles and responsibilities of the DPSA are to:

- a) Develop, review, and disseminate the *Policy on the prevention and elimination of violence and harassment in the public service world of work*.
- b) Provide advisory services to all departments on the applications and monitoring of the Policy.
- c) Support departmental training initiatives on request and provide advisory services for training material development.

The responsibilities of the DPSA are to:

- a) Monitor the application of the Policy and produce annual reports from data submitted by all departments on an annual basis.

11.6 The Complainant(s)

The roles and responsibilities of the Complainant(s) are to:

- a) An employee being subjected to offensive behaviour should, whenever possible, attempt to put a halt to the unwelcome behaviour as early as possible by making it clearly known to the offender, orally or in writing, that his/her behaviour is not appropriate and that it should cease immediately.
- b) The complainant is to report any harassment incidents as soon as possible.
- c) Provide a truthful and accurate account of the incident(s). False allegations of harassment shall not be tolerated and whoever acts in bad faith will face disciplinary action.

11.7 The Respondent(s)

The roles and responsibilities of the Respondent(S)are to:

- a) Fully comply with any investigations conducted into the allegations of harassment.
- b) Respect the confidentiality of the investigation process and not disclose information related to the case to others who are not directly involved or authorized to know.
- c) Refraining from engaging in any form of retaliation against the individual who has made the harassment complaint, or any witnesses involved in the investigation.

- d) Familiarise themselves with the Policy and follow any procedures outlined for handling violence and harassment complaints.
- e) Provide truthful and accurate information during the investigation process. Providing false information or withholding relevant details will have serious consequences.

11.8 The Gender Focal Points

The roles and responsibilities of the Gender Focal Points are to:

- a) Promote diversity & gender equality through participation in Policy development and review processes.
- b) Provides support and guidance to employees who have experienced harassment, including information on available resources, reporting mechanisms, and potential courses of action.

11.9 The Labour Relations Officers

The roles and responsibilities of the Labour Officer are to:

- a) Advise staff on rights and obligations under Staff Rules and how complaints might be best resolved.
- b) Monitor and submit quarterly reports on all cases reported, retracted, resolved, and pending to the Head of Department. Such reports should use non-identifying statistical information to uphold confidentiality.

11.10 The Health & Wellness Unit

The roles and responsibilities of the members of the Employee Health & Wellness Unit are to:

- a) Provide relevant counselling and support when required.
- b) Encourage employees who may report incidents of violence and harassment to them, to report such complaints to the Harassment Advisor.
- c) Maintain confidentiality for all harassment matters reported to them.

11.11 The Mediators

The roles and responsibilities of Mediators are to:

- a) Provide a channel for dialogue and conciliation between Public Servants.
- b) Assist employees who so wish, during the informal procedure of a harassment complaint.
- c) Assist parties involved in coming to a resolution, and taking steps to mediate between them, if requested by the complainant,
- d) Advise and make suggestions, as appropriate, on actions needed to settle conflicts.
- e) Draft and facilitate the signing of the resolution agreement.

11.12 The Harassment Committee

It is not mandatory for departments to have a Harassment Committee. However, for departments that opt to have a Harassment Committee, its roles and responsibilities are to:

- a) Promote a safe work environment that is free of harassment.
- b) Advocate for the protection of the rights of harassment complainants.
- c) Create an atmosphere that promotes equality and gender justice.
- d) Work with the gender directorate to ensure that programs for gender sensitization and harassment are implemented.
- e) Support the Harassment Advisor where necessary with the investigation of complaints.
- f) Design/develop, with the Harassment Advisor mechanisms for registering complaints that are safe and accessible to all employees.
- g) Develop programs that educate all employees about harassment and its consequences in the world of work.
- h) Together with the Harassment Advisor, actively promote the provisions of the Policy through the development and distribution of multimedia education materials.

11.13 The Managers / Supervisors

The roles and responsibilities of Managers and Supervisors are to:

- a) Know and understand this Policy and assume responsibility for its implementation.
- b) Communicate the Policy to all employees, including newly appointed employees.

- c) Take all reasonable steps to create and maintain an environment that is free from violence and harassment in which staff feel free to express concerns about inappropriate behaviours and to use, without fear of reprisal, the existing institutional channels for conflict resolution.
- d) Respond promptly and appropriately to a complaint of harassment from employees.
- e) Prevent retaliation against any employee raising a harassment complaint.
- f) Treat all complaints seriously, impartially, and with confidentiality.
- g) Undergo training on the harassment Policy and related topics.
- h) Take prompt and appropriate corrective and disciplinary action against personnel who have engaged in harassing conduct or who have not carried out their responsibilities under this Policy. Failure to take adequate steps to prevent, manage, and eliminate harassment once an allegation of harassment by an employee has been submitted within a reasonable time, will render the employer vicariously liable for the conduct of the employee in terms of section 60 of the EEA, this is also applicable when violence or harassment consists of a single incident.

11.14 The Employees

The Public Servants are at the centre of this Policy. They have the following roles and responsibilities:

- a) All employees should refrain from violating and harassing others in the world of work.
- b) Treat fellow employees with respect and dignity.
- c) Know and understand this harassment, Policy.
- d) Know who the harassment advisors in your department are.

12. TIME FRAMES

12.1 Prompt reporting of harassment is in the best interest of all Parties and enables the Head of Department to address and correct unacceptable behaviour and provide support to the complainant. Complainants of violence and harassment are therefore expected to report the case as soon as it has occurred. However, there is no limitation on the reporting timeframe for any harassment incidents.

12.2 In case of occupational injury related to violence and harassment in the world of work, the Head of Department must report to the Compensation Commissioner within 7 days of receipt of the complaint or becoming aware of the incident (Compensation for Occupational Injuries & Diseases Act no 130 of 1993, sec 38).

12.3 The Head of Department shall ensure that a reported violence or harassment complaint is investigated and resolved within 30 calendar days, i.e. from reporting to the conclusion of investigation and feedback.

12.4 If 30 calendar days expire before the investigation of the harassment case is concluded, the department shall extend, for exceptional reasons, up to 14 additional workdays by performing the following two actions before the expiring date:

- a) Informing the complainant in writing before the end of the 30 days.
- b) Informing the DPSA, in writing, of the standard delay not respected and outlining reasons for the extension.

13. EDUCATION AND TRAINING

13.1 Continuous education and training are necessary to ensure that employees and Third Parties know and understand this Policy and can prevent and report violence and harassment when it occurs.

13.2 As part of the induction processes, new employees must undergo training on violence and harassment in the world of work within four weeks of employment.

13.3 A refresher training on violence and harassment shall be given every 24 months to employees.

13.4 Harassment Advisors and members of the Harassment Committee must undergo regular training to increase their knowledge of violence and harassment and enhance their skills in investigation, communication, conflict resolution, mediation, and legal developments concerning harassment.

13.5 Trade Unions should include the issue of sexual harassment and other forms of harassment in their education and training programs for shop stewards and employees in an accessible format.

13.6 CCMA, Bargaining Council Commissioners, and Labour Court Judges should receive specialized training to deal with harassment cases.

14. COMMUNICATION

14.1 The Head of Department shall take steps to communicate this Policy to all employees and other persons who have dealings with the public service regularly.

14.2 Employees are to confirm receipt, that they have read it, and understand the contents of this Policy.

14.3 Harassment Advisors and Committee member names and contact details must be widely publicized within the departments.

15. POLICY IMPLEMENTATION, MONITORING AND REVIEW

15.1 The implementation date of the Policy shall be the date on which the approval and signature.

15.2 The monitoring of the Policy shall be carried out annually, by the 30th of April as follows:

- a) The provincial Head of Administration in the Office of the Premier shall coordinate all provincial reports and submit these to the DPSA.
- b) All national departments shall submit reports directly to the DPSA.
- c) DPSA will collate one report on the implementation of the Policy across the public service and report annually through the Annual Performance Report.

15.3 The departments shall ensure compliance with the Policy.

15.4 The Policy will be subject to periodic review by the DPSA to ensure that it remains aligned with prevailing Acts, regulations, and resolutions.

16. PRECISIONS INTRODUCED BY THE POLICY IN FORMAL PROCEDURES

Below are some of the professional practices that strengthen the Policy and consequently align with the procedures underpinning it.

A. CONFIDENTIALITY AND PROTECTION OF INFORMATION

16.1 The harassment complaint, including written and oral communications related to it, shall be strictly confidential at all stages. All managers, employees, and other persons who are aware of the harassment complaint, or involved in its resolution, must respect the sensitivity as well as the strict confidentiality of the matter. They must not discuss the complaint with third parties.

16.2 Harassment Advisors, Investigators, Mediators, and any other persons involved with the management process should protect confidentiality and privacy and maintain the security of

all documents related to complaints, including contents of meetings, interviews, and investigation reports.

16.3 Breach of confidentiality shall not be tolerated and shall be sanctioned accordingly.

B. THE DESIGNATION OF THE HARASSMENT ADVISOR

16.4 The Head of Department shall designate a Harassment Advisor to deal with harassment complaints in the department. This designation may be per case or for a fixed period.

16.5 The Head of Department shall be guided by the following criteria when appointing a Harassment Advisor:

- (a) Knowledge and understanding of general Policy development and its implementation and knowledge of department policies
- (b) Psychological and emotional stability
- (c) Integrity
- (d) Compassion
- (e) Ability to maintain confidentiality
- (f) Objectivity
- (g) Good communication skills (verbal and written)
- (h) Good listening skills
- (i) Investigative skills

16.6 The designation of a Harassment Advisor requires a formal process that involves:

- a) The evaluation of the qualifications and experience of the candidate
- b) The vetting and reference check (if applicable)
- c) The evaluation of the position within the structure of the department to ensure need for confidentiality, independence, and the latitude to perform sensitive tasks.
- d) A documented decision by the Head of Department.

C. THE HARASSMENT COMMITTEE CONSTITUTION

16.7 A Harassment Committee is a support structure and is not mandatory. However, based on the needs of the departments, a committee should be established as follows:

- a) Members are nominated by the Head of Department.
- b) The Committee is bound by the same rules of confidentiality as the Harassment Advisor

- c) The Committee must be equitably reflective of the demography of the department.
- d) Members of the Committee should be trained, as soon as they are nominated, on harassment, violence, and sexual harassment in particular as it is the most rife.

D. HARASSMENT OF PUBLIC SERVANTS BY SERVICE RECIPIENTS

16.8 The government of South Africa is committed to providing a safe environment for all its employees, including against violence and harassment of public servants by service recipients. Employees must report all violence and harassment through the channels provided by their department.

E. INTRODUCTION OF A MANDATORY TEST FOR HARASSMENT

16.9 A test for harassment to establish whether the incident(s) can be classified as harassment must be administered and take the following factors into account. This test for harassment serves several important purposes, in addition to addressing concerns related to confirming if harassment has taken place, it further assists in identifying security threats and addressing psychological concerns

It makes provisions for analysing and confirming whether harassment has taken place. It provides protocols for addressing security threats that may be associated with violence and harassment. This involves assessing the level of risk, implementing security measures, and involving appropriate authorities if necessary to ensure the safety of employees.

It also addresses the psychological impact of harassment on the individuals involved. This includes provisions for accessing support, counselling, and other resources by employees who have experienced harassment to address their psychological well-being.

F. DISPUTE RESOLUTION MAXIMUM DELAY

16.10 Should a complaint of alleged harassment not be resolved through the departmental internal procedures, if the resolution is not agreed to by the complainant, 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.

G. CONFLICTS OF INTEREST - SENIOR-LEVEL OFFICIALS

- 16.11 Where the Head of Department or a high-ranking official is implicated in potentially violent or harassing conduct, the Executive Authority becomes the authority that appoints the Harassment Advisor, directs the investigation, and makes decisions on the case.
- 16.12 Once the Harassment Advisor has been designated, all terms and procedures set out in this Policy for subsequent action shall apply without exception.

H. INTERIM MEASURES TO ENSURE HARASSING CONDUCT DOES NOT CONTINUE

- 16.13 Before conducting a thorough investigation into the allegations of violence or harassment misconduct, a manager/supervisor, upon the advice of the Harassment Advisor, must take any necessary interim steps to ensure that the alleged harassment conduct does not continue. The interim measures taken may include but are not limited to issuing a No Contact Instruction and separation of the respondent from the Complainant.

I. LEAVE OF ABSENCE CONSIDERATION

- 16.14 The department may give due consideration to the granting of special leave in cases of harassment where the complainant, upon medical advice from a registered medical practitioner, requires leave for medical or related reasons.
- 16.15 Where an employee's existing sick leave entitlement has been exhausted, the employee shall follow the application for temporary incapacity leave as specified in the *Policy and procedure on incapacity leave and ill-health retirement (PILIR)*.
- 16.16 If harassment results in an employee being ill for longer than two weeks. The employee may be entitled to claim illness benefits in terms of section 20 of the Unemployment Insurance Act, 2001.

J. DISCIPLINARY MEASURES

- 16.17 A range of appropriate disciplinary sanctions for violence and harassment will be enforced on individuals found guilty; these may include counselling, reprimands, suspensions, or termination. Monitoring will be strengthened to ensure standardization across all departments to ensure compliance with the Policy.

K. CRIMINAL CHARGES AND/OR CIVIL CLAIMS

16.18 A complainant of 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.

17. FORMAL PROCEDURES UNDERPINNING THE POLICY

The *Policy on the prevention and elimination of violence and harassment in the public service world of work* is underpinned by eleven (11) formal procedures to enable the standardization, professionalism, transparency, and accountability across all departments and to ensure protection, confidentiality, and impartiality for alleged victim and perpetrator.

17.1 PROCEDURE 1: DESIGNATION OF HARASSMENT ADVISOR

The purpose of the procedure is to establish a clear and structured process for designating and defining the profile of individuals who will serve as Harassment Advisors within departments. The procedure will outline the criteria for selecting Harassment Advisors, their responsibilities, the process for reporting harassment incidents to them, and the steps they should take to address and support individuals who have experienced violence or harassment. Key elements included in the procedure involve the qualifications and training required for Harassment Advisors, the process for their selection, the reporting structure within the department, confidentiality guidelines, and the steps for resolving harassment complaints.

17.2 PROCEDURE 2: VIOLENCE AND HARASSMENT RISK ASSESSMENT

The purpose of the violence and harassment risk assessment is to present the portrait of the department. It will be conducted through the completion of a risk assessment tool by the Harassment Advisor in collaboration with other stakeholders of the department.

17.3 PROCEDURE 3: CONSULTATION ON HARASSMENT

The purpose of the consultation procedure is to provide a safe platform for all employees to have a voice and be heard, test for and classify harassment, assess the need for psychological support and security protection, and receive information on the different

avenues available to resolve harassment. Unattributed information will be collected for statistical purposes on alleged harassment incidents in departments to inform strategic responses. The Harassment Advisor may organize an informal discussion, at the request of the complainant, to explain to the respondent that the behaviour in question is not welcome, that it offends the complainant or makes them uncomfortable, and/or it also interferes with their work. In addition, the discussion will provide the respondent with an opportunity to respond and share their perception. If the complainant is not satisfied with the outcomes of the informal discussion, they may then follow a formal procedure.

17.4 PROCEDURE 4: LODGING A FORMAL HARASSMENT GRIEVANCE AND ANALYSIS

The purpose of this procedure is to enable a formal and confidential reporting of violence and harassment in the world of work. The harassment complaint must be reported to the HR or Harassment Advisor in writing. The full statement will be recorded and will include information such as the names of both the complainant(s) and respondent(s), the date(s) when the incident(s) occurred, and where it occurred. The information will be presented to the decision maker to support their decision on the next steps to be taken such as mediation, investigation, or other appropriate process.

17.5 PROCEDURE 5: DECISION-MAKING FOR MEDIATION OR INVESTIGATION

The purpose of the procedure is to outline the mandatory steps required to decide on whether a grievance received should be further investigated or resolved through mediation. It assures standardization across all public services and ensures that violence and harassment cases are resolved through the correct channels. The procedure also ensures that the conclusion and recommendation in the preliminary analysis report are not biased, and key information is not missing or overlooked. Both the complainant and respondent must consent to undergo the mediation process.

17.6 PROCEDURE 6: HARASSMENT MEDIATION

The purpose of the mediation procedure is to provide standardized steps to facilitate a controlled problem-solving conducive environment between the parties involved. This procedure involves mediation after the matter has been formally reported and the decision has been taken by the Complainant to have the complaint resolved through a mediation process. If the complainant is not satisfied with the outcomes of the mediation, they may then

request to have the matter investigated. In dealing with the matter the complainant must first lodge a formal grievance according to the Grievance Procedure for the Public Service Resolution 14 of 2002 of the Public Service. The complainant must ensure that the provisions of the grievance procedure are exhausted before triggering the next process.

17.7 PROCEDURE 7: HARASSMENT INVESTIGATION

The purpose of the investigation procedure is to outline the mandatory steps to be taken to gather and analyse all evidence to prove or disprove a complaint, allegation, suspicion, or any violence or harassment issue. The procedure standardizes the manner in which investigations are conducted across all departments to ensure impartiality, due diligence, confidentiality, and professionalism. Minimal requirements include the scope and plan of the activities, evidence to be gathered, interview(s), analysis, quality insurance process, documentation gathering of evidence, and the production of an investigation report to assist the decision makers for decision(s) to be taken.

The investigation procedure must be sensitive to gender and other inclusivity factors (such as ethnicity, sexual orientation, age, and others) and ensure that all intersectional identity factors are formally considered to assure equity and respect. The complainant may also choose to resolve the complaint through this process without first using the mediation route. In dealing with the matter the complainant must first lodge a formal grievance according to the Grievance Procedure for the Public Service “Resolution 14 of 2002 Public Service”

17.8 PROCEDURE 8: DECISION-MAKING FOR HARASSMENT CASES

The purpose of the decision-making for harassment cases procedure is to provide a framework for the decision-maker following the outcome of a mediation or investigation process. The procedure ensures decision is recorded, and categorized for statistical purposes and, that formal actions are taken systematically within minimal timeframes.

17.9 PROCEDURE 9: INVESTIGATION/MEDIATION POST ACTION

The purpose of this procedure is to ensure that remedial action will be taken where necessary and according to each case. Discipline for violating the harassment Policy must align with the severity of the misconduct.

For investigations that prove to be conclusive based on information from the harassment complaint, immediate disciplinary proceedings shall be taken align with the Disciplinary Code and Procedures in the Public Service.

The procedure emphasizes the importance of enforcing sanctions by the decision-maker. This will assure an environment free of any harassment and, demonstrate it is not tolerated. In addition, for individuals found guilty, sanctions will provide an educational opportunity to correct their behaviour and ensure accountability for their actions. Finally, acting systematically sets the tone at the top and reduces the likelihood of future prohibited conduct. In the event that 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.

At a minimum, a verbal or written warning will be issued with guidance on how to avoid future misconduct. Further action may be taken, including job reassignment, sensitivity training, suspension, demotion, termination of employment, or other measures depending on the severity of the offense. Sanction to be enforced will take into consideration mitigation and aggravation factors.

17.10 PROCEDURE 10: COMMUNICATION AND TRAINING

The purpose of this procedure is to ensure that all employees are aware of the *Policy on the prevention and elimination of violence and harassment in the public service world of work*, understand its implications, and are equipped to prevent and address instances of violence and harassment in the public service world of work. Moreover, it will ensure communication and training are provided to managers and employees to ensure clarity of their respective roles and responsibilities in the management, elimination and prevention of violence and harassment in the world of work. The Procedure defines the content to be communicated (what), period and frequency of communication and training (when), responsibility of communication (whom), and tools to be used (methods) such as communication product, awareness campaign, or target training in the department.

17.11 PROCEDURE 11: MONITORING AND COMPLIANCE

The purpose of this procedure is to ensure that the Policy is being effectively implemented and adhered to within the public service world of work. This involves ongoing oversight and evaluation to uphold the standards set forth in the Policy and to address any issues related

to compliance. It will provide means to verify that employees and management are following the guidelines and principles outlined in the Policy. When non-compliance is identified, the procedure will facilitate the appropriate measures to address and rectify the issues. This may involve corrective actions, additional training, counselling, or disciplinary measures as outlined in the Policy.

18. ANNEXURE A: GLOSSARY

- Allegation - a statement, by a complainant, that he or she believes an act of harassment has occurred.
- Behaviour - includes actions of individuals or a group and may involve using a system of work as a means of victimizing, humiliating, undermining, or threatening.
- Bullying: unreasonable actions of individuals (or groups) directed towards an employee (or a group of employees), which are intended to intimidate, degrade, humiliate, or undermine, or create a risk to the health or safety of the employee(s).
- Complainant - any person who alleges that he or she is being subjected to harassment; an employee, applicant for employment, or intern who believes that he or she has been the victim of unlawful discrimination or harassment and submits a complaint.
- Complaint - a formal notification, either orally or in writing, of the belief that harassment has occurred.
- Consent: voluntary, positive agreement between the participants to engage in a specific activity.
- Discrimination: unfair treatment of an individual or group based on their race, color, religion, sex, national origin, age, disability, or other identity factors.
- Hostile Work Environment: A workplace environment in which unwelcome conduct based on a protected characteristic unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.
- Microaggressions: Brief and commonplace verbal, behavioural, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative slights and insults toward a person or group.
- Policy: for the purpose of this document, the Policy refers to the *Policy on the prevention and elimination of violence and harassment in the public service world of work*.
- Principles of natural justice: These are the rules about the right to a fair hearing and against bias. They are:
 - the right to a fair hearing: audi alteram partem rule
 - the rule against bias: nemo iudex in causa sua rule

- Quid Pro Quo Harassment: Submission to or rejection of unwelcome conduct used as the basis for employment decisions affecting the individual.
- Reporting Mechanisms: The procedures and channels through which employees can report incidents of harassment, discrimination, or retaliation.
- Respondent - 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.
- Retaliation: Adverse action taken against an individual in response to a complaint of harassment or discrimination, or participation in an investigation of such a complaint.
- Sextortion, a form of quid pro quo sexual harassment, is an abuse of authority by a supervisor or any member of management and or employees who have the power to employ/dismiss or change the working conditions of an employee. It involves implied or expressed promise of reward for complying with a sexually oriented request or implied or expressed threat of reprisal or actual reprisal for refusal to comply with a sexually oriented request.
- Sexual Harassment: Unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature that creates an intimidating, hostile, or offensive work environment. Unwelcome explicit or implicit behaviour, suggestions, messages, or remarks of a sexual nature that have the effect of offending, intimidating, or humiliating the complainant or related person would be offended, humiliated, or intimidated.

APPROVAL BY THE EXECUTIVE AUTHORITY

Policy Approved:



INKOSI MZAMO BUTHELEZI MP
MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION
DATE 21/08/24