

# Chief Albert Luthuli Municipality

The transparent, innovative and developmental municipality  
that improves the quality of life of its people



## Sexual Harassment Policy 2024/25

5-1  
N-E  
ME

| CONTROL SHEET                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Policy Number                     | HR-21/2024                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Policy Name                       | Sexual Harassment Policy                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Policy Status                     | Review                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Date of last Approval             | May 2024                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Policy review / Development       | Policy to be reviewed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Date of next review               | This policy shall remain effective until such time approved otherwise by Council and may be reviewed whenever it is necessary to align it with changes of relevant legislation or operations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Purpose                           | <ul style="list-style-type: none"> <li>The municipality is committed to ensuring that staff members are not subjected to any form of sexual harassment</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Aims and objectives               | <ul style="list-style-type: none"> <li>To ensure that sexual harassment is not be permitted or condoned and shall be regarded as a form of serious misconduct. Action shall be taken in terms of the disciplinary code of the municipality.</li> <li>To ensure that staff members or any other person who have been subjected to sexual harassment have the right to lodge a grievance or lay a formal complaint with the municipality.</li> <li>To ensure that the municipality investigates all complaints and grievances brought to its attention.</li> <li>To ensure that the municipality informs all staff members of this policy and the need to refrain from any form of sexual harassment.</li> <li>To ensure that it be noted that this policy also protects prospective staff members as well as clients of the municipality.</li> <li>To ensure that management implements this policy and takes disciplinary action against staff members who do not comply with this policy. Serious incidents of sexual harassment or continued harassment are dismissable offences.</li> <li>To ensure that allegations of sexual harassment are dealt with seriously, expeditiously, sensitively and confidentially.</li> <li>To ensure that disciplinary action is taken against victimisation or retaliation against a staff member who in good faith lodges a complaint of sexual harassment.</li> <li>To ensure that false or vindictive accusations are viewed in a very serious light.</li> <li>To ensure that anonymous complaints are disregarded</li> </ul> |
| Policy custodian                  | Director : Corporate Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Related Policies and Legislations | <ul style="list-style-type: none"> <li>National Treasury Regulations</li> <li>Basic Conditions of Employment Act</li> <li>Labour Relations Act</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Approving authority               | Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Applicability                     | This policy is applicable to all employees who may be found in contravention.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Amendments to the Policy          | <ul style="list-style-type: none"> <li>Rule on Budget and Resources be removed</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Policy Benchmark and References   | GSDM                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| Stakeholders Consulted            | CALM Finance department                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Accountability                    | The Municipal Manager is accountable for the proper implementation of this policy in terms of the Systems Act.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

5-2  
MK

## INDEX

|                                                                          |   |
|--------------------------------------------------------------------------|---|
| Purpose                                                                  | 1 |
| The Policy                                                               | 1 |
| 1. Preamble                                                              | 1 |
| 2. Definitions                                                           | 1 |
| 3. Legal Framework                                                       | 2 |
| 4. Scope and Application                                                 | 2 |
| 5. Objectives                                                            | 2 |
| 6. Policy Content                                                        | 3 |
| Staff                                                                    | 3 |
| Commitment by Management                                                 | 3 |
| Specific Considerations: Confidentiality, Identity, Protection           | 4 |
| Procedures                                                               | 4 |
| (a) Advice and Assistance                                                | 4 |
| (b) Options to resolve a problem                                         | 5 |
| (c) Informal Procedure                                                   | 5 |
| (d) Formal procedure                                                     | 5 |
| (e) Investigation and Disciplinary Action                                | 5 |
| (f) Criminal and Civil Charges                                           | 5 |
| (g) Confidentiality                                                      | 5 |
| (h) Formal Procedure (Grievance Procedure ito Main Collective Agreement) | 6 |
| 7. Implementation and Monitoring                                         | 6 |
| 8. Communication                                                         | 6 |
| 9. Policy Review                                                         | 6 |
| 10. Roles and Responsibilities                                           | 6 |
| 11. Record keeping                                                       | 6 |
| 12. Penalties                                                            | 6 |
| 13. Dispute Resolution                                                   | 6 |

5  
MC

Notwithstanding the review date herein, this policy shall remain effective until such time approved otherwise by council and may be reviewed on an earlier date if necessary.

### **Purpose of the Policy**

Chief Albert Luthuli Municipality is committed towards creating a working environment where the dignity and respect of staff members, non-staff members and municipal councillors is upheld. The municipality is concerned about the occurrence of sexual harassment and is committed to prevent this kind of behaviour and disapprove of any form of sexual harassment. The municipality shall deal with all allegations of sexual harassment in a serious, expeditious, sensitive and confidential manner; and shall strive to protect the parties involved in alleged sexual harassment against victimisation.

### **The Policy**

#### **1. Preamble**

The municipality is committed to ensuring that staff members are not subjected to any form of sexual harassment. Persistent, unsolicited and unwanted sexual advances or suggestions made by one staff member to another, regardless of gender and/or sexual orientation shall not be tolerated. Violations of this policy shall lead to disciplinary action, which shall include dismissal, and/or criminal charges. All managers at the municipality have a responsibility to address all reports of harassment. In dealing with cases of sexual harassment, the municipality shall be guided by the Code of Good Practice as contained in Schedule 8 of the Labour Relations Act, 1995 (Act No 66 of 1995) and the NEDLAC Code of Good Practice on the Handling of Sexual Harassment Cases.

#### **2. Definitions**

Sexual harassment is defined as unwanted conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and with mutual consent.

All terminology not defined under section 2 of this policy shall bear the same meaning as in the applicable legislation.

#### **Sexual attention becomes sexual harassment if:**

- (1) The behaviour is persistent, although a single incident of harassment can also constitute sexual harassment depending on the gravity of the incident.
- (2) The recipient has made it clear that the behaviour is considered offensive and the perpetrator had continued with such behaviour. The perpetrator shall have known that the behaviour is unacceptable.

#### **Sexual harassment may include:**

- (3) Unwelcome remarks, jokes, innuendoes or taunts about a persons body, clothing or sex;
- (4) Insulting gestures and practical jokes of a sexual nature which causes awkwardness or embarrassment;
- (5) Displaying pornographic, pin-up pictures, graffiti or other offensive material;
- (6) Leering (suggestive staring);
- (7) Demands for sexual favours.

Sexual harassment has nothing to do with affection, flirtation, romance or relationships, when both parties consent freely thereto. Sexual harassment is about coercion of power.

Employment threats or benefits may be expressed or implied and they are usually conditional upon the receiver of the threat or benefits submitting to the advance. The threat may relate to a loss of employment unless advances are submitted to.

The employer shall make every reasonable effort to ensure that no staff member is subjected to sexual harassment. In the event that sexual harassment is alleged, the disciplinary procedure shall be applied.

The following is examples of the various forms of sexual harassment but the list is not exhaustive:

- (8) Physical conduct of a sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and includes a strip search by or in the presence of another person.
- (9) Verbal forms of sexual harassment include unwelcome innuendoes, suggestions and hints, sexual advances, comments with sexual overtures, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or directed toward them, unwelcome and
- (10) inappropriate enquiries about a person's sex life, and unwelcome whistling directed at a person or group of persons.
- (11) Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
- (12) Quid pro quo harassment occurs where management or co-staff member, undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefits of a staff member or job applicant, in exchange for sexual favours.

### **3. Legal Framework**

- (1) The Employment Equity Act, 1998 (Act No 55 of 1998), Chapter 2 section 6 (1) and (3).
- (2) The Constitution of the Republic of South Africa, 1996, Chapter 2 section 9, 10, 12 24(a).
- (3) The Labour Relations Act, 1995 (Act No 66 of 1995), Chapter VIII (Code of Good Practice Promulgated by Notice 1367 in Government Gazette of 17 July 1998); Chapter 3 Section 16.
- (4) The Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, Item 12 Schedule 2 - Code of Conduct for Municipal Staff Members.

### **4. Scope and Application**

All councillors, staff members, job applicants and any other persons who have dealings with the municipality have the right to be treated with respect and dignity.

### **5. Objectives of the Policy**

The policy objectives are:

- (1) To ensure that sexual harassment is not be permitted or condoned and shall be regarded as a form of serious misconduct. Action shall be taken in terms of the disciplinary code of the municipality.
- (2) To ensure that staff members or any other person who have been subjected to sexual harassment have the right to lodge a grievance or lay a formal complaint with the municipality.
- (3) To ensure that the municipality investigates all complaints and grievances brought to its attention.

- (4) To ensure that the municipality informs all staff members of this policy and the need to refrain from any form of sexual harassment.
- (5) To ensure that it be noted that this policy also protects prospective staff members as well as clients of the municipality.
- (6) To ensure that management implements this policy and takes disciplinary action against staff members who do not comply with this policy. Serious incidents of sexual harassment or continued harassment are dismissable offences.
- (7) To ensure that allegations of sexual harassment are dealt with seriously, expeditiously, sensitively and confidentially.
- (8) To ensure that disciplinary action is taken against victimisation or retaliation against a staff member who in good faith lodges a complaint of sexual harassment.
- (9) To ensure that false or vindictive accusations are viewed in a very serious light.
- (10) To ensure that anonymous complaints are disregarded.

## 6. Policy Content

The employer wishes to create and maintain a working environment which is free of sexual harassment, where all staff members respect one another's integrity and dignity, privacy and their right to equity in the workplace. The employer views sexual harassment of a fellow staff member or of a non-staff member as serious misconduct. The employer undertakes to take strict action in sexual harassment cases but cannot be held criminally or civilly liable for the actions of its staff members where the employer has acted appropriately.

In addition, victims of sexual harassment shall not be made to feel that their grievances are ignored or trivialised, or fear reprisals. Implementation of the following guidelines can assist in achieving these ends:

- (1) All staff members shall refrain from committing acts of sexual harassment.
- (2) All staff members have a role to play in contributing towards a working environment in which sexual harassment is unacceptable. They shall therefore ensure that their standards of conduct do not cause offence and they shall discourage unacceptable behaviour on the part of others.
- (3) Management shall attempt to ensure that persons such as the public, suppliers, job applicants and others who have dealings with the organisation, are not subjected to sexual harassment, which occurs within the workplace.
- (4) A victim of sexual assault/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.
- (5) **Commitment by Management**
  - (a) Management undertakes to deal with any allegations of sexual harassment speedily and without favour.
  - (b) Management further undertakes to deal with allegations of sexual harassment in a confidential manner.
  - (c) Any person bringing allegations of sexual harassment to the attention of management shall be protected against victimisation.

- (d) Whilst management shall act against anyone who commits acts of sexual harassment it shall also protect staff members against false accusations.
- (e) Subject to an investigation, management may suspend a staff member on full pay but this is to be regarded as a precautionary measure only and does not in any way imply that the staff member is guilty of any wrongdoing.
- (f) Sexual Harassment is a serious form of misconduct and if found guilty staff members may be dismissed, even for a first offence.

**(6) Specific Considerations**

**(a) Confidentiality**

The employer shall endeavour to proceed with its investigation with caution and such protocol as to ensure that a case exists before proceeding. Because of the sensitivity and the nature of the issue staff member confidentiality and protection shall be ensured.

**(b) Identity**

The employer shall endeavour as far as possible to withhold the identity of the complainant until such time as the investigation has been completed and it has been decided to pursue the enquiry route.

**(c) Protection**

The employer shall investigate every complaint, whether reported or not, as the employer could be found liable where steps have not been taken to resolve a case of sexual harassment. Sexually harassed staff members shall be given adequate sick leave and/or assistance for counselling where appropriate.

**(7) Procedures**

The municipality shall develop clear procedures to deal with sexual harassment. These procedures shall ensure the resolution of problems in a sensitive, efficient and effective way.

**(a) Advice and Assistance**

Sexual harassment is a sensitive issue and a victim may feel unable to approach the perpetrator, lodge a formal grievance or turn to colleagues for support. As far as is practical employers shall designate a person outside of line management whom victims may approach for confidential advice. Such a person:

- (i) Could include persons employed by the municipality to perform inter alia such a function, a trade union representative or co-staff member, by outside professionals.
- (ii) Should have the appropriate skills and experience or be properly trained and given adequate resources.
- (iii) Could be required to have counselling and relevant labour relations skills and be able to provide and advise on a confidential basis.

**(b) Options to resolve a problem**

- (i) Staff members shall be advised that there are, depending on the seriousness, two options to resolve 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.
- (ii) The staff member shall be under no duress to accept one or the other option.

452  
ME

**(c) Informal Procedure**

- (i) It may be sufficient for the staff member concerned to have an opportunity where she/he 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.
- (ii) If the informal approach has not provided a satisfactory outcome, 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, a strip search and *quid pro quo* harassment.

**(d) Formal Procedure**

Where a formal procedure has been chosen by the aggrieved, a formal procedure for resolving the grievance is available and attached hereto:

- (i) Specify to whom the staff member shall lodge the grievance.
- (ii) Make reference to timeframes which allow the grievance to be dealt with expeditiously.
- (iii) Provide that if the case is not resolved satisfactorily, the issue shall be dealt with in terms of the disciplinary procedures.

**(e) Investigation and Disciplinary Action**

- (i) Care shall 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 unwarranted.
- (ii) The Code of Good Practice regulating dismissal contained in Schedule 8 of the LRA reinforces the provisions of Chapter VIII of this Act and provides that a staff member may be dismissed for serious misconduct or repeated offences. Serious incidents of sexual harassment or continued harassment after warnings are dismissible offences.
- (iii) The range of disciplinary sanctions to which staff members shall be liable shall be clearly stated, and it shall also be made clear that it shall be a disciplinary offence to victimise or retaliate against a staff member who in good faith lodges a grievance of sexual harassment.

**(f) Criminal and Civil Charges**

A victim of sexual assault has the right to press separate criminal and/or civil charges against an alleged perpetrator, and the legal rights of the victim are in no way limited by this code.

**(g) Confidentiality**

- (i) The employer and staff members shall 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.
- (ii) In cases of sexual harassment, management, staff members and the parties concerned shall endeavour to ensure confidentiality in the disciplinary enquiry.
- (iii) Only appropriate members of management as well as the aggrieved person, representative, alleged perpetrator, witnesses and interpreter if required, shall be present in the disciplinary enquiry.

**(h) Formal Procedure (Grievance procedure in terms of the Main Collective Agreement)**

Staff member lodge completed Annexure A form to Manager or next reporting level:

- (i) Address grievance within 10 working days
- (ii) No resolution, refer to municipal manager
- (iii) Address grievance within 6 working days
- (iv) No resolution, refer grievance to the council/Bargaining council

**8. Implementation and Monitoring**

The policy shall be implemented after approval by municipal council.

**9. Communication**

This policy, and related information, shall be communicated to all staff members and councillors using the full range of communication methods available to the municipality.

**10. Policy Review**

This policy shall be reviewed annually and revised as necessary.

**11. Roles and Responsibilities**

The municipal manager or his/her delegate accepts overall responsibility for the implementation and monitoring of the policy.

**12. Record Keeping**

All documentation and correspondence emanating from or related to this policy shall be kept on either personal and/or record files as dictated by the nature of issue.

**13. Penalties**

Non-compliance to any of the stipulations contained in this policy shall be regarded as misconduct, which shall be dealt with in terms of the Disciplinary Code. Sexual Harassment is a serious form of misconduct and if found guilty staff members may be dismissed, even for a first offence.

**14. Dispute Resolution**

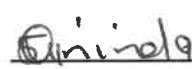
Should a complaint of alleged sexual harassment not be satisfactorily resolved by the internal procedures set out above, either party may within 30 days of the dispute having arisen, refer the matter to the Bargaining council for conciliation in accordance with the provisions of section 135 of the LRA.

Should the dispute remain unresolved, either party may refer the dispute to the Labour Court within 30 days of receipt of the certificate issued by the Commissioner in terms of section 135[5].



---

**MR. ME THABETHE (Pr. Tech. Eng)**  
**MUNICIPAL MANAGER**



---

**CLLR. SV GININDA**  
**COUNCIL SPEAKER**