



BOJANALA PLATINUM DISTRICT MUNICIPALITY

SEXUAL HARASSMENT POLICY

1. POLICY

In terms of the provisions of the Employment Equity Act 55 of 1998, sexual harassment, like all forms of harassment, constitutes discrimination. All employees, job applicants, and other persons who have dealings with the BPDM have the right to be treated with dignity.

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

Sexual attention becomes sexual harassment if the behaviour is persisted in (although a single incident of harassment can constitute sexual harassment) or if the recipient has made it clear that the behaviour is considered offensive). Sexual attention may also be rendered sexual harassment if the perpetrator should have known that the behaviour is regarded as unacceptable.

2. FORMS OF SEXUAL HARASSMENT

Sexual harassment within BPDM shall include unwelcome physical, verbal or non-verbal conduct, including, but not limited to the examples below.

Physical conduct: This includes all unwanted physical contact, including touching, sexual assault and rape. A strip search in the presence of the opposite sex also constitutes sexual harassment.

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 enquiries about a person's sex life, and unwelcome whistles directed at a person or group of persons.

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

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

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

3. BASIC PRINCIPLES IN RESPECT OF SEXUAL HARASSMENT

It is the duty of Bojanala Platinum District Municipality to create and maintain a working environment in which the dignity of the employee is respected.

A climate in BPDM shall also be created and maintained in which victims of sexual harassment will not feel that their grievances are ignored or trivialized, or fear reprisals.

In order to achieve the objects stated above, the following basic principles apply:

- ❑ Management, political office bearers and employees are required to refrain from committing acts of sexual harassment.
- ❑ Management, political office bearers and employees have a role to play in contributing towards creating and maintaining a working environment in which sexual harassment is unacceptable. They should ensure that their standards of conduct do not cause offence and they should discourage unacceptable behaviour on the part of others.
- ❑ Management, political office bearers and employees shall attempt to ensure that persons such as customers, suppliers, job applicants and others who have dealings with the BPDM are not subject to sexual harassment by BPDM, management or the employees.
- ❑ Management, political office bearers and employees are required to take appropriate action in accordance with the policy when instances of sexual harassment that occur within the District Municipality are brought to their attention.

4. GUIDELINES

Advice and assistance

- ❑ Because sexual harassment is a sensitive issue and a victim of harassment may feel unable to approach the perpetrator, lodge a formal grievance or turn to colleagues for support, the BPDM designates the Director Corporate Support as whom victims may approach for confidential advice.

Process options

- ❑ During the course of providing advice and assistance, employees shall be advised that there are two options to resolve a problem relating to sexual harassment within BPDM:
 - ❖ The problem may be addressed in an informal way, or
 - ❖ A formal procedure may be embarked upon.
- ❑ No pressure of whatever nature shall be placed on the employee to select any one procedure instead of another.

Informal procedure

- ❑ It may be sufficient for the employee concerned to have an opportunity where he or she can explain to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work.
- ❑ If the informal procedure has not provided a satisfactory outcome, if the case is severe or if the conduct continues, it may be more appropriate to embark on a formal procedure. Severe cases may include: sexual assault, rape, a strip search and/or quid pro quo harassment.

Formal procedure

- ❑ If the victim has selected to follow a formal procedure or a formal procedure follows because of the failure of an informal procedure or the seriousness of the case, the victim may lodge a formal grievance in terms of the grievance procedure.
- ❑ Considerable care shall be taken during the course of the grievance process of a sexual harassment case 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.

- If the grievance procedure does not resolve the issue, the dispute shall be processed in terms of the provisions below.

Sexual harassment and disciplinary action

BPDM shall take considerable care during the course of any disciplinary investigation of a sexual harassment case 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.

Serious incidents of sexual harassment or continued harassment after warnings are dismissible offences.

In the case of disciplinary action in response to sexual harassment misconduct, the procedures set out in the disciplinary code and procedure shall be followed. The fact that the charge of misconduct relates to allegations of sexual harassment does not mean that the employee is not entitled to a fair disciplinary process.

In cases of sexual harassment, management, employees and the parties concerned must endeavour to ensure confidentiality in the disciplinary enquiry.

Only appropriate members of management as well as the aggrieved person, representative and/or the alleged perpetrator, witnesses and interpreter if required may be present in the disciplinary enquiry.

Such information that is deemed reasonably necessary to enable the parties to prepare for the disciplinary hearing must be disclosed to either party or to their representatives.

The victim of sexual assault has the right to press separate criminal and/or civil charges against an alleged perpetrator. In this context, the legal rights of the victim remain intact and are not limited in any way by this policy.

Resolution of disputes

If a complaint of sexual harassment has not been satisfactorily resolved by means of the procedures set out in the above, the dispute may be referred to the Commission for Conciliation, Mediation and Arbitration in terms of section 10 of the Employment Equity Act, 55 of 1998 by the District Municipality as an BPDM or by the victim.

All procedures as set out in section 10 of the Employment Equity Act shall be complied with.

If the dispute remains unresolved after conciliation, the dispute may be referred to the Labour Court for adjudication or to the CCMA for arbitration, provided that the dispute may be referred to the CCMA for arbitration if and only if there is consensus from both parties to the jurisdiction of the CCMA in writing.

Confidentiality

BPDM and employees will ensure that grievances about sexual harassment are investigated and handled in a manner that ensures that the identities of the persons involved are kept confidential.