

MOLEMOLE LOCAL MUNICIPALITY

POLICY AND CODE OF GOOD PRACTICE
ON THE HANDLING OF SEXUAL
HARASSMENT CASES

1. INTRODUCTION:

- (a) The objective of this code is to eliminate sexual harassment in the workplace.
- (b) This code provides appropriate policy and procedures to deal with the problem and prevent its recurrence.

2. APPLICATION OF THE CODE:

- (a) This code is intended to guide Council and its employees on the handling of sexual harassment cases.
- (b) Nothing in 2(a) above confers the authority on Council to take disciplinary action in respect of non-employees.
- (c) A non-employee who is a victim of sexual harassment may lodge a grievance with Council where the harassment has taken place in the workplace or in the course of the harasser's employment.

3. DEFINITION OF SEXUAL HARASSMENT:

- (a) 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 mutual.
- (b) Sexual attention becomes sexual harassment if:
 - (i) The behaviour is persisted in, although a single incident of harassment can constitute sexual harassment; and/or
 - (ii) The recipient has made it clear that the behaviour is considered offensive; and/or
 - (iii) The perpetrator should have known that the behaviour is regarded as unacceptable.

4. FORMS OF SEXUAL HARASSMENT:

- (a) Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, but is not limited to the examples listed as follows:

- (i) 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.
 - (ii) 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 or unwelcome and inappropriate enquiries about a person's sex life.
 - (iii) Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
 - (iv) Quid pro quo 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 benefit of an employee or job applicant, in exchange for sexual favours.
- (b) 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 rating or salary increases.

5. POLICY STATEMENTS:

- (a) Council will create and maintain a working environment in which the dignity of employees is respected. A climate in the workplace will also be created and maintained in which victims of sexual harassment will not feel that their grievances are ignored or trivialised, or fear reprisals. The following guidelines will be implemented to achieve these ends:
 - (i) Both Management and employees will be required to refrain from committing acts of sexual harassment.

- (ii) Both Management and employees will contribute towards creating and maintaining a working environment in which sexual harassment is unacceptable. They will ensure that their standards of conduct do not cause offence and they will discourage unacceptable behaviour on the part of others.
 - (iii) Management will ensure that the employer or its employees do not subject persons such as customers, suppliers, job applicants and others who have dealings with the business, to sexual harassment.
 - (iv) Management will take appropriate action in accordance with this code, when instances of sexual harassment, which occur within the workplace, are brought to their attention.
- (b) This policy recognises the primacy of collective agreements regulating the handling of sexual harassment cases, and is not intended as a substitute for disciplinary codes and procedures containing such measures, where these are the subject of collective agreements.
- (c) Council is committed to ensure that:
 - (i) All employees, job applicants and other persons who have dealings with the business, are treated with dignity.
 - (ii) Sexual harassment in the workplace is not permitted or condoned.
 - (iii) Persons who have been subjected to sexual harassment in the workplace have a right to raise a grievance about it, should it occur.
 - (iv) Management is placed under a positive duty to implement the above policy and take disciplinary action against employees who do not comply with the policy.
 - (v) Allegations of sexual harassment are dealt with seriously, expeditiously, sensitively and confidentially.
 - (vi) Employees are protected against victimisation, retaliation for lodging grievances and from false accusations.

6. PROCEDURES:

(a) Advice and Assistance

Council will provide advice, assistance and counseling to affected employees free of charge through Council's Employee Assistance Programme (EAP).

(b) Informal Procedure

(i) Every employee concerned will have an opportunity where he/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.

(ii) If the informal approach has not provided a satisfactory outcome, if the case is severe or if the conduct continues, the employee concerned may embark upon a formal procedure. Severe cases may include: sexual assault, rape, a strip search and quid pro quo harassment.

(iii) No employee is under duress to follow the informal procedure first.

(c) Formal procedure

(i) Council's grievance procedure.

(ii) If a case is not resolved satisfactorily after following the above procedure, the dispute procedures contained in item 7(5) may be followed.

(d) Investigation and disciplinary action

(i) Care will 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) Serious incidents of sexual harassment or continued harassment after warnings will be regarded as dismissable offences.

(iii) In cases of persistent harassment or single incidents of serious misconduct, Council will also take into consideration the procedures set out in the Code of Good Practice contained in Schedule 8 of the Labour Relations Act, Act 66 of 1995 (hereinafter referred to as the LRA).

(iv) It will be a disciplinary offence to victimise or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

(e) Criminal and civic charges

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

(f) 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 SALGBC for conciliation, or may further act in accordance with any applicable provision provided for in the LRA.

7. CONFIDENTIALITY:

(a) Council 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.

(b) In cases of sexual harassment, management, employees and other parties concerned will endeavour to ensure confidentiality in the case of a disciplinary enquiry. Only appropriate members of management as well as the aggrieved person, his/her representative, alleged perpetrator, witnesses and interpreter if required, will be present in a disciplinary enquiry.

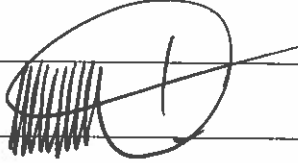
(c) Management will disclose to either party or to their representatives, such information as may be reasonably necessary to enable the parties to prepare for any proceedings in terms of this code.

8. INFORMATION AND EDUCATION:

The issue of sexual harassment will be included in the orientation and applicable education and training programmes of employees.

9. IMPLEMENTATION:

This code and policy will become effective from the date of approval thereof by Council.

Signature:	
Initials and Surname:	M. E P A - J A
Designation:	MAYOR
Council Resolution Number:	OC / 7.1.2 / 27 / 05 / 22
Council Date:	27 / 05 / 2022