

**RICHTERSVELD MUNICIPALITY**  
**HUMAN RESOURCE POLICIES**

**7. SEXUAL  
HARASSMENT**

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HUMAN RESOURCE POLICY**

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<b>Approved Date: 30/06/2022</b>	<b>Council Resolution Nr: RVM007/06/2022</b>
<b>Effective Date: 01 July 2022</b>	<b>Review Date: 30 June 2023</b>

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.

**Why Have a Policy?**

The Richtersveld Municipality is committed towards creating a working environment where the dignity and respect of employees, non-employees and the Richtersveld Municipality Councilors is upheld. We are concerned of sexual harassment and are committed to prevent this kind of behavior and disapprove any form of sexual harassment. The Richtersveld Municipality will deal with all allegations of sexual harassment in a serious, expeditious, sensitive and confidential manner, and will strive to protect the parties involved in alleged sexual harassment against victimization.

## THE POLICY

### 1. Preamble

The Richtersveld Municipality is committed to ensuring that employees are not subjected to any form of sexual harassment. Persistent, unsolicited and unwanted sexual advances made by one employee to another, regardless of gender and sexual or intention will not be tolerated. Violations of this policy will lead to disciplinary action, which will include dismissal and criminal charges. All Managers at the Richtersveld Municipality have a responsibility for addressing all reports of harassment. In dealing with cases of sexual harassment, the Richtersveld Municipality shall be guided by the Code of Good Practice in schedule 8 of the labour relations act, 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 the behavior that is welcomes and with mutual consent.***

***All terminology not defined under the clause 2 of this policy shall bear the meaning as in the applicable harassment distinguishes it from be behaviour that is welcome and with mutual consent.***

**Sexual Attention becomes sexual harassment if:**

- The behavior is persistent, although single incident of harassment can also constitute sexual harassment depending on the gravity of the incident.
- The receipt has made it clear that the behaviour is considered offensive and the perpetrator has continued with such behaviour.
- The perpetrator should have known that the behavior is unacceptable.

**Sexual harassment may include:**

- Unwelcome remarks, jokes, innuendoes or taunts about a person body, clothing or sex:
- Insulting gestures and practical jokes of a sexual nature which causes awkwardness or embarrassment
- Displaying pornographic, pin-up pictures, graffiti or other offensive material:
- Demands for sexual favors

Sexual harassment has nothing to do with affection, flirtation, romance or relationships, when both parties consent freely thereof; Sexual harassment is about coercion power. Employment threats or may benefit may be expressed or implied and they are usually conditions upon the receiver of the threat or benefits to the advance. The threat may relate to a loss of employment unless are submitted to.

The employer will make every reasonable effort to ensure no employee is subjected to sexual harassment. The employer will either look at a uniform or set a dress code for all employees, such as:

- Dresses / skirts may not be shorter than 4cm above the knee;
- No revealing top or blouses.

In the event that sexual harassment is alleged, the disciplinary procedure must be applied.

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

- Physical conduct of 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.
- 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 whistling directed at a person or group of persons.
- Non-verbal forms of sexual harassment include unwelcome gestures, incident exposure, and the unwelcome display of sexually explicit pictures and objects.
- Quid pro quo harassment occurs where management or co-employee, undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefits of employment or job applicant, in exchange for sexual favors.

### **3. Legal Frameworks**

- Employment Equity Act 1998 Chapter 2 clause 6(1) and (3)
- The Constitution of the Republic of South Africa 1996 chapter 2 clause 9,10,12,24(a)
- Labour Relations Act 66 of 1995 Chapter VII (code of good practice promulgated by notice 1367 in government gazette of July 1998) section 16 of labour relations act chapter 3 section 16

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

All employees, job applicants and any other persons who have dealings with the Richtersveld Municipality have the right to be treated with the respect and dignity.

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

**Policy Objectives are to endure:**

- Sexual harassment will not be permitted or condoned and will be regarded as a form of sexual misconduct. Action will be taken in terms of the disciplinary code of the Richtersveld Municipality.

- Employees or any other who have been subjected to sexual harassment have the right to lodge an egregious or lay a formal complaint with the Richtersveld Municipality.
- The Richtersveld Municipality is committed to investigate all complaints and grievances brought to its attention.
- The Richtersveld Municipality undertakes to inform all employees of the policy and the need to refrain from any form sexual harassment.
- It should be noted that this policy also protects prospective employees as well as clients of the Richtersveld Municipality.
- Management is required to implement this policy and take disciplinary action against employee who does not comply with this policy. Serious incidents of sexual harassment or continued harassment are dismissal offences.
- Allegations of sexual harassment will be dealt with seriously, expeditiously, sensitively and confidentially.
- It is disciplinary offence to victimize or retaliate an employee who in good faith lodges a complaint of sexual harassment.
- False or vindictive accusations shall be viewed in a very serious light.
- Anonymous complaints will be disregarded.

## **6. Policy Content**

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

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

- All employees must refrain from committing acts of sexual harassment.
- All employees have a role to play in contributing towards a working environment in which sexual harassment is unacceptable. They should therefore ensure that their standards of conduct do not cause offence and they should discourage unacceptable behavior on the part of others.
- Management will attempt to ensure that persons such as public, suppliers, job applicants and others who have dealings with the organization, are not subjected to sexual harassment, which occurs within the workplace.
- A victim of sexual assault has the right to institute separate criminal and civil proceedings against an alleged perpetrator, and the legal rights of the victim are in no way limited by this policy.

### **6.1 Commitment by Management**

- Management undertakes to deal with any allegations of sexual harassment speedily and without favour.
- Management further undertakes to deal with allegations of sexual harassment in a confidential manner.

- Any person bringing allegations of sexual harassment to the attention of management will be protected against victimization.
- Whilst management will act against anyone who commits acts of sexual harassment will also protect employees against false accusations.
- Subject to an investigation management may suspend an employee of full pay but this is to be regarded as a precautionary measure only and does not in any way imply that the employee is guilty of any wrong doing.
- Sexual harassment is a serious form of misconduct and if found guilty employees may be dismissed, even for a first offence.

## **6.2 Specific Considerations**

### **6.2.1 Confidentially**

The employer will endeavor to proceed with its investigations with caution and such protocol as to ensure that the case exists before proceedings. Because of the sensitivity and the nature of the issue employee confidentiality and protection must be ensured.

### **6.2.2 Identity**

The employer will endeavor 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.

### **6.2.3 Protection**

The employer will investigate every complaint, as the employee could be found liable where steps have been taken to resolve a case of sexual harassment. Sexually harassed employees should be given adequate sick leave and assistance for counseling, if and when needed.

## **6.3 Procedures**

Employers should develop clear procedures to deal with sexual harassment these procedures should ensure the resolution of problem in a sensitive, efficient and effective way.

### **6.3.1 Advice Assistance**

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

- Could include a person employed by the Richtersveld Municipality, a trade union representatives or a co-employee or outside professionals.
- Should have the appropriate skills and experience or be properly trained and given adequate resources.
- Could be required to have counseling and relevant labour relations skills and be able to provide and advise on a confidential basis.

### **6.3.2 Options to resolve a problem**

- Employees should be advised that there are, depending on the basis on the seriousness, two options to resolve a problem relating to sexual harassment.

Either an attempt can be made to resolve the problem relating to sexual harassment.

- The employee should be under no duress to accept one or the other option.

### **6.3.3 Informal Procedure**

- It is sufficient for the employee concerned to have an opportunity where she can to person engaging in the unwanted conduct that the behavior in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work.
- If the approach has not provided a satisfactory outcome, if the case is severe or if there 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.

### **6.3.4 Formal Procedure**

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

- Specify to whom the employee should lodge the grievance.
- Make reference to timeframes which allow grievance to be dealt with
- Pretentiously.
- Provide that if the case is not resolved satisfactory, the issue must be dealt with in terms of the disciplinary procedures.

### **6.3.5 Investigation and Disciplinary Action**

- Care should be taken during any investigation of a grievance of sexual harassment that the grievance person is not disadvantaged, and that the position of other parties is not prejudiced if the grievance is found to be unwanted.
- The Code of Good Practice regulating dismissal contained in schedule 8 of the LRA reinforces the provisions of chapter VII of this act and provides that an employee may be dismissed the provisions misconduct or repeated offences. Serious incidents of sexual harassment or continued harassment after warnings are dismissible offences.
- The range of disciplinary sanctions to which employees will be liable should be clearly stated, and it should also be made clear that it will be regarded as misconduct to victimize or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

### **6.3.6 Criminal and Civil Charges**

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

### **6.3.7 Confidentiality**

- Employers and employees must 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
- In cases of sexual harassment, management employees and the parties concerned must endeavor to ensure in the disciplinary enquiry. Only appropriate members of management as well as aggrieved person, representative, alleged

perpetrator, witnesses and interpreter if required, must be present in the disciplinary enquiry.

### **6.3.8 Formal Procedure**

Employee lodge completed annexure a form to Manager or next reporting level;  
Address grievance within 5 working days;  
No resolution refers to the Richtersveld Municipality Manager;  
Address grievance within 6 working days;  
Grievances that could not be resolved will be referred to the Bargaining Council;  
The Richtersveld Municipal Council must be informed of any cases in committee.

## **7. Implementation and Monitoring**

The policy shall be implemented after consultation with the labour unions and the approval of the Richtersveld Municipality Manager and Municipal Council.

## **8. Communications**

This policy and related information will be communicated to all Richtersveld Municipality employees and Councilors using the full range of communication methods available to the Richtersveld Municipality.

## **9. Policy Review**

This policy will be reviewed annually and revised as necessary.

## **10. Budget and Resources**

The financial and resource implications related to the implementation of this policy should be qualified and quantified.

## **11. Roles and Responsibilities**

The Richtersveld Municipality Manager or his 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 will be kept on either personal or other as dictated by the nature of issue.

## **13. Penalties**

Non-compliance to any of the stipulations contained in this policy will be regarded as misconduct, which will be dealt with in terms of the Disciplinary Code. Sexual harassment



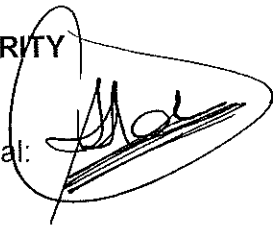
is a serious form of misconduct and if found guilty employees may be dismissed, even for a first offence.

#### 14. Dispute resolutions

Should a complaint of alleged sexual harassment not be satisfactory resolved by the internal procedures set above out, 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].

#### 15. AUTHORITY

MM Approval:

A handwritten signature in black ink, appearing to be 'MM', is written over a large, irregular, hand-drawn oval shape.

Date: 30/06/2022