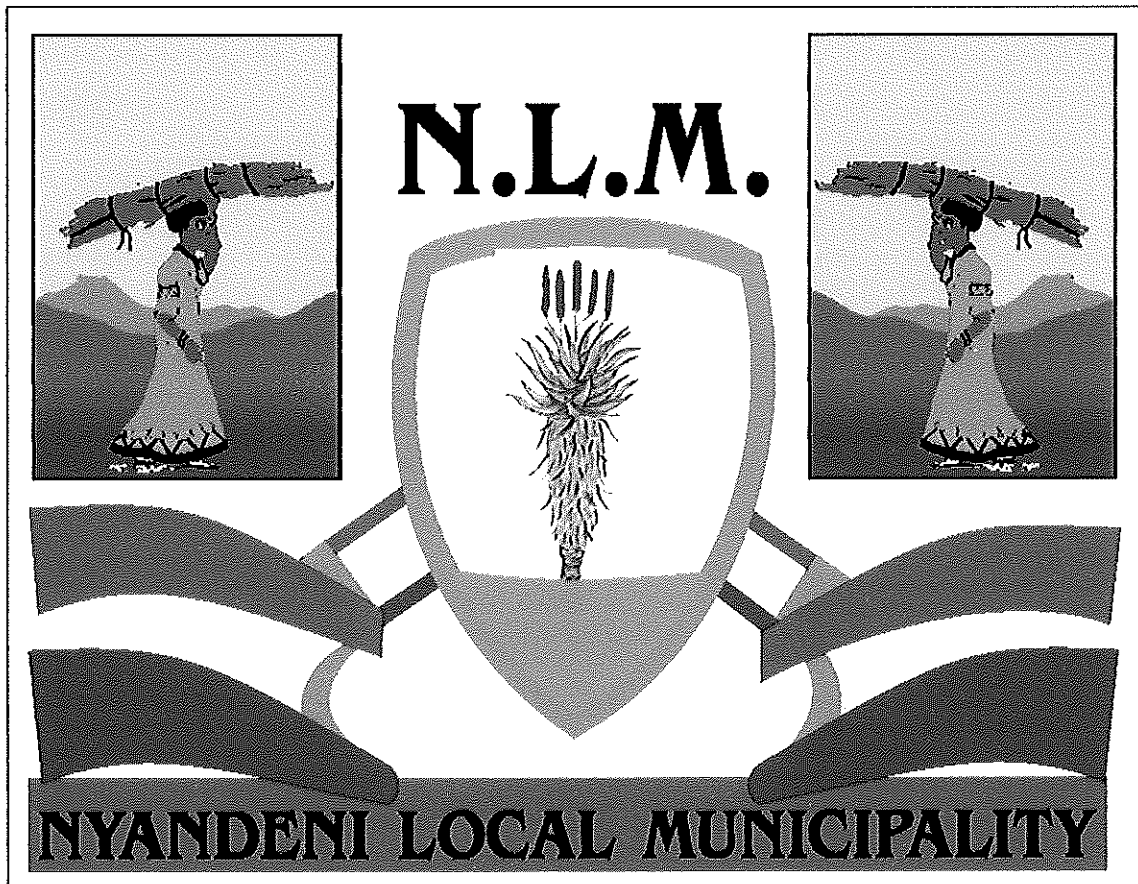



# SEXUAL HARASSMENT POLICY



APPROVED BY:

  
MRS N. NOMANDELA  
MUNICIPAL MANAGER

DATE: 29 July 2013

APPROVED BY:

  
CLLR T SOKHANYILE  
MAYOR

DATE: 29 July 2013

## 1. PREAMBLE

- 1.1. The municipality is aware that workers ,at work place may sometimes be subjected to various forms of sexual harassment
- 1.2. The right of employees to an environment free of sexual harassment is guaranteed in the constitution and is provided for in the EC Act (Electronic Communications Act)
- 1.3. The Nyandeni Local Municipality is committed to protecting its employees to all forms of sexual harassment including Quid Pro Quo,physical sexual harassment, verbal sexual harassment, on verbal and non physical form of harassment

## 2. OBJECTIVES

The main objectives of this policy are:

- 2.1. To promote the prevention of sexual harassment in the workplace
- 2.2. To provide guideline for handling staff grievances on sexual harassment
- 2.3. To provide guidelines to handling disciplinary cases against sexual harassment
- 2.4. To provide guidelines for handling victims of sexual harassment
- 2.5. To provide framework on support programme to victims of sexual harassment

## 3. GUIDING PRINCIPLES

- 3.1. The municipality has adopted a hard line stance against all forms of sexual harassment.
- 3.2. The municipality is committed to protecting victims of sexual harassment at the workplace from further victimization either by the initial transgressors or other employees/councillors
- 3.3. Whenever necessary, the municipality will provide counseling services( at the expense of the municipality) to victims of sexual harassment and their partners/families
- 3.4. All municipality and councillors are to be fully oriented on this policy and educated on the seriousness and consequences of sexual harassment
- 3.5. No one is above this and any other legislation workplace sexual harassment

## 4. DEFINITION OF SEXUAL HARASSMENT

- 4.1. Sexual harassment is any speech and/or conduct of a sexual discriminatory nature which was neither welcomed nor encouraged, committed by a colleague, which would be offensive to a reasonable person and which creates an abusive working environment and/impair his/her job performance
- 4.2. Provision of 4.1 above also refers to various forms of sexual harassment as provided for in this policy
- 4.3. Excuses/justifications on the grounds of cultural inclinations cannot be used as the grounds for sexual harassing the employee (harassing the employee/councillor sexually).

## 5. COVERAGE

- 5.1. The provisions of this policy cover the staff and councillors ( as the employer) of the local municipality

## 6. RESPONSIBILITY

### 6.1. COUNCILLORS

- 6.1.1. It is the ultimate responsibility of the council, as the employer, that employees are protected against all forms of sexual harassment and that all necessary steps are taken to deal with and eliminate sexual harassment.
- 6.1.2. Victims of sexual harassment are protected from any further harassment/victimization by virtue of the fact that he/she has lodged a grievance/case on sexual harassment.
- 6.1.3. The council must also ensure that an environment, conducive to lodging/cases/grievances on sexual harassment, is created
- 6.1.4. Should ensure that once the cases/grievances on sexual harassment are received they are processed very swiftly in an unbiased and objective manner and disciplinary actions are taken in a swift manner, against transgressors, once they are found guilty.

### 6.2 CORPORATE SERVICES MANAGER AND EAP COORDINATOR

- 6.2.1. Effectively communicate to staff and councillors all the provisions of this policy and educate both stakeholders on the consequences
- 6.2.2. Receive cases of sexual harassment that have been referred to the Corporate Services Department
- 6.2.3. Investigate or appoint an Investigating officer to investigate claims on sexual harassment
- 6.2.4. Inform the alleged transgressor of the grievance lodged against him/her and of the processes to be followed in processing the case
- 6.2.5. Ensure that all information (in respect of both the victim and the alleged transgressors) is handled with absolute care and confidentiality (until all the facts have been established and proven)
- 6.2.6. Appoint the mediator to mediate between the two parties
- 6.2.7. If necessary, Institute a disciplinary inquiry against the alleged transgressor
- 6.2.8. Prepare and provide reports on sexual harassment cases within the local municipality
- 6.2.9. Receive and process any appeal that may arise from sexual harassment disciplinary cases
- 6.2.10. Attend CCMA hearings that may arise from sexual harassment cases
- 6.2.11. Provide counseling services

### **6.3. MANAGERS**

- 6.3.1. Ensure that all information ,In their possession, in respect of sexual harassment cases is handled with care and in a confidential manner
- 6.3.2. Create, within their departments, units or offices, an environment which is free from sexual harassment

### **6.4. EMPLOYEES**

- 6.4.1. Ensure that his/her behavior, physical, verbal and non verbal does not cause offence and sexual harassment to other employees
- 6.4.2. He/she discourages unacceptable behavior on the part of others
- 6.4.3. Lodge their grievance on sexual harassment with the relevant person and cooperate with the investigation that the municipality may institute

## **7. LOGGING SEXUAL HARASSMENT**

- 7.1. Grievances on sexual harassment should be lodged directly with the Corporate Services Manager
- 7.2. In the case where either the Corporate Services Manager or HRM Officer is alleged transgressor, the grievance can be lodged with the Municipal Manager
- 7.3. The grievance may be lodged in writing
- 7.4. Where the case has been lodged verbally, the Corporate Services/HRM Officer may interview the employee and may require the employee to reduce his/her grievance in writing.

## **8. INVESTIGATION SEXUAL HARASSMENT**

- 8.1. Once the grievance has been received, the Corporate Services must initiate an investigation by appointing an Investigation Officer
- 8.2. Grievance on sexual harassment must be processed within 5 days after the date of receipt
- 8.3. Both parties should be given a fair chance to put forward their case and the alleged transgressor should be presumed innocent until proven otherwise
- 8.4. On completion of the Investigation the report should be submitted to the Corporate Services Manager/ Municipal Manager .Depending on the report, the Corporate Services Manager/Municipal Manager may call a meeting with the employee that has lodged a grievance, Inform him/her of the preliminary findings and ascertain the need for either mediation or disciplinary hearing
- 8.5. The audit alter partum rule should be applied, i.e. both parties should be given a fair change to put forward their cases
- 8.6. A disciplinary committee should be assembled to attend to the investigation. The presiding Officer should be selected based on his/her knowledge of the Labour Legislation.
- 8.7. The accused has the right to representation as per the provisions of the grievance procedures of the local Municipality

8.8 Recommendations of the disciplinary committee should be submitted to and considered by the Council. The Council has got the right to approve the recommendations of the disciplinary committee or to initiate further investigation

8.9. In the case where the accused or victim is not happy with the ruling of the council, he may take the case further with CCMA.

## **9. VICTIM OF SEXUAL HARASSMENT**

9.1. Victim of sexual harassment should be guaranteed of confidentiality during the investigation and the aftermath of a sexual Harassment incident

9.2. Victims of sexual harassment ( and family) should, when necessary, be provided with counseling services at the expense of the municipality

9.3. The municipality may recover the costs of counseling incurred by the council from the transgressor if proven guilty

## **10. AWARENES PROGRAMMES**

The municipality should raise the awareness of the consequences of sexual harassment amongst staff members through pamphlets, information sessions and suitable posters and also during induction training.

## **11. PENALTIES/DISCIPLINARY MEASURES AGAINST SEXUAL HARASSMENT**

11.1 The municipality regards sexual harassment as a serious offence

11.2 Depending on the merit and seriousness of each case, disciplinary measures against sexual harassment may take any of the following forms:

- Written warning
- Final written warning
- Suspension without pay
- Demotion
- Dismissal

11.3 A Disciplinary Committee must be elected

11.4 Disciplinary action against employees lodging untrue claims of sexual harassment should be taken