

# MSUKALIGWA LOCAL MUNICIPALITY



## SAFETY MANAGEMNT SYSTEM

Approved Date: 03 July 2023
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Review Date: as when necessary
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## **1. Aim**

To establish an effective Health and Safety Management System (SMS) for the Msukaligwa Local Municipality and to ensure all levels of management and employees are accountable for the implementation of this system. During the past three months it has been discovered that the Municipality does not have a Safety management system.

## **2. Objective**

- a) To provide a structured Health and Safety Management System to eliminate or control risks in all operations into an acceptable level.
- b) In terms of the Occupational Health and Safety Act No 85 of 1993 prescribes that the employer must ensure health, safety working environment in a workplace under his control and ensure it is free from any form of Risk and hazards.
- c) For the purpose of compliance to the above legislation, the municipality is expected to develop and adopt systems to regulate safety measure in the workplace.
- d) To develop and embed a health and safety culture in all our activities that recognizes the importance and value of effective health and safety management.
- e) Clearly define for all employees their accountability and responsibility for the development and delivery of a health and safety strategy.
- f) Ensure that all employees are provided with adequate and appropriate health and safety information, resources and training.
- g) To empower employees to have the ability to identify hazards in the workplace, assess the level of risk associated with the hazard, and identify controls to manage the hazard.
- h) To prevent injury and illness in the workplace and ensuring continual improvement in health and safety management performance.
- i) Compliance with applicable legal and other requirements that relate to health and safety.
- j) To provide a systematic guide to assist business units effectively manage their health and safety programmes.

## **3. Benefits**

1. Improved health and safety performance
2. Reduced cost associated with accidents and incidents.
3. Improved staff relations and morale.
4. Improve business efficiency.
5. Improved public image.
6. Increased regulatory compliance.
7. Improved confidence.
8. Boost corporate and social responsibility.

#### 4. Safety Management System Elements

<b>1. SHE Management</b> <ul style="list-style-type: none"> <li>- Policies</li> <li>- Safety Standards</li> <li>- Safety Procedures</li> </ul>	<b>6. (Risk Assessments)</b> <ul style="list-style-type: none"> <li>- Hazard Identification</li> </ul>
<b>2. Authority &amp; Responsibility</b> <ul style="list-style-type: none"> <li>- Legal Appointments</li> <li>- Roles &amp; Responsibility</li> <li>- Structures &amp; Organogram</li> </ul>	<b>7. Occurrence Investigation)</b> <ul style="list-style-type: none"> <li>- IOD Investigation</li> <li>- Occurrence Investigation</li> <li>- Corrective Action</li> </ul>
<b>3. Safety Plan</b> <ul style="list-style-type: none"> <li>- Safety Management Programmes</li> </ul>	<b>8. Monitoring)</b> <ul style="list-style-type: none"> <li>- Notice board</li> <li>- Safety Performance</li> <li>- Safety Report</li> <li>- Roles &amp; Responsibility</li> <li>- Structures &amp; Organogram</li> </ul>
<b>4. Safety Audits</b> <ul style="list-style-type: none"> <li>- Safety Legal Compliance Audits</li> <li>- System Compliance Audits</li> </ul>	<b>9. Training &amp; Communication)</b> <ul style="list-style-type: none"> <li>- Safety Talk</li> <li>- Task Observation</li> <li>- Training needs analysis</li> </ul>
<b>5. Management Review</b>	

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## 5. REFERENCE DOCUMENTS

- Occupational Health and Safety Act 85 of 1993

## 6. ABBREVIATIONS

### Abbreviations

**SMS:** Safety Management System

## 7. LEGISLATIVE/POLICY IMPLICATIONS

- Closure of the operations.
- The inspector may issue a directive to restrict/suspend any unsafe conditions.
- Conviction (imprisonment for 5-15 years) if there is an offence in contravention of the Act and possible fines.

## 8. RESPONSIBILITIES AND AUTHORITIES

OHS and Wellness  
Practitioner

- Must ensure that this procedure is implemented and adhered to and that it addresses all the relevant applicable documentation.

### AUTHORITY



**MR M KUNENE**  
**ACTING MUNICIPAL MANAGER**

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**DATE**

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**MSUKALIGWA LOCAL MUNICIPALITY**  
**SEXUAL HARASSMENT POLICY**  
**2023 -2024**



Approved Date: 03 July 23

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## TABLE OF CONTENT

No	Topic	PAGE NO
1	Preamble	3
2	Definition of terms	3
	2.1 Sexual harassment	3
	2.2 Alleged perpetrator	3
	2.3 Complainant	3
	2.4 Employee	3
	2.5 Confidentiality	3
	2.6 Same sex harassment	3
3	Legislative frame work	3
4	Scope and application	3
5	Objectives of the policy	3
6	Policy content	4
	6.1 Forms of sexual harassment	4
	6.1.1 Physical conduct	4
	6.1.2 Verbal Conduct	4
	6.1.3 Non-verbal conduct	4
	6.1.4 Quid pro quo harassment	4
6.2	Principles and responsibilities	4
	6.2.1 Responsibility of management	4
6.3	Specific consideration	5
	6.3.1 Confidentiality	5
	6.3.2 Identity	5
	6.3.3 Protection	5
6.4	Procedure for resolving complaints	5
	6.4.1 Advice and assistance	5
	6.4.2 Procedures on advice of sexual harassment	5
	6.4.3 Investigation and disciplinary action	6
	6.4.4 Criminal and civil charges	6
7	Dispute resolutions	7
8	Communication	7
9	Policy review	7
10	Authority	7

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## 1. PREAMBLE

The MSUKALIGWA municipality is committed to providing an institutional environment where all employees perform their duties free from any form of harassment. Sexual harassment covers a range of behaviours, which constitute unwelcome conduct of a sexual nature and violates the rights of an employee and constitutes a barrier to equity in the workplace. All managers of MSUKALIGWA municipality have a responsibility for addressing all reported harassment.

## 2. DEFINITIONS OF TERMS

2.1. "Sexual Harassment" is defined as an unwanted conduct of a sexual nature that violates the rights of a person. To determine whether a conduct constitute sexual harassment, the following factors are to be considered: -

- (i) Whether harassment is on the prohibited grounds of sex and /or gender (regardless of the sexual orientation of either the complainant and the alleged perpetrator)
- (ii) Whether the sexual conduct was unwelcomed
- (iii) The impact of the sexual conduct on the complainant
- (iv) The nature and extent of the sexual conduct

2.2. "**Alleged perpetrator**" means a person alleged to have committed an act of sexual harassment

2.3. "**Complainant**" means a person who lodges a complaint under this policy or a person against whom an act of sexual harassment has allegedly been perpetrated.

2.4. "**Employee**" means a person who has been appointed by the MSUKALIGWA Municipality, who is subject to the rules and policies of the institution.

4 2.5. "**Confidentiality**" means that information is accessible only to those authorised to have access to it.

2.6. "**Same sex harassment**" means harassment where the alleged perpetrator and victim are of the same sex.

## 3. LEGISLATIVE FRAMEWORK

3.1. The Constitution of the Republic of South Africa, 108 of 1996

3.2. The Employment Equity Act, 55 of 1995 as amended 3.3. The Labour Relations Act, 66 of 1995

3.4. The Local Government Municipal Systems Act, 32 of 2000

3.5. Public service law Act 86 of 1998 as amended

3.6. Chapter 2 of the Bill of rights

3.7. Code of good practice on the handling of sexual harassment cases.

## 4. SCOPE AND APPLICATION

The policy will apply to all employees of MSUKALIGWA Municipality regardless of the level of the position.

## 5. OBJECTIVES OF THE POLICY

The objective of the policy is to create and maintain a working environment which is free of sexual harassment where all employees respect one another's integrity and dignity, privacy and their right to equity in the workplace. To ensure that all employees refrain from committing acts of sexual



harassment, and to regulate the processes to be followed when an act of sexual harassment has been reported.

## 6. POLICY CONTENT

### 6.1. FORMS OF SEXUAL HARASSMENT

The following becomes the forms of sexual harassment that warrants investigations and where necessary, disciplinary actions be taken against the alleged perpetrator.

**6.1.1 Physical conduct:** It includes all unwanted physical contact ranging from unwelcome patting, pinching, fondling, touching and kissing to molestation, sexual assault and rape including a strip (body) search by or in the presence of a member of the opposite sex, displaying pornography.

**6.1.2 Verbal conduct:** It includes unwelcome hints, suggestions, advances, comments, jokes, whistling and inappropriate enquiries that have sexual overtones or are sex-related and directly or in their absence directed at a person or group of persons. Examples are unwelcome remarks, telephone call with sexual overtones, persistently rude or sexist jokes, unwelcome request for dates and graphic comment about a person's body.

**6.1.3 Non-verbal conduct:** It includes unwelcome gestures, e.g. persistent unwelcome winking and flirting, leering (suggestive staring), indecent exposure, the public display of sexually explicit or suggestive objects and pictures, eg pornographic pictures.

**6.1.4 QUID PRO QUO HARASSMENT** This form of harassment occurs when management or co-employee, undertakes or attempts to influence the process of employment, promotions, training, discipline, dismissal, salary increment or other benefits of an employee or job applicant, in exchange for sexual favours.

Sexual favouritism exist 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 increase.

### 6.2. PRINCIPLES AND RESPONSIBILITIES

#### 6.2.1. Responsibility of management

- (i) Management must refrain from committing acts of sexual harassment.
- (ii) Management undertakes to deal with any allegations of sexual harassment speedily and without favour.
- (iii) Management further undertakes to deal with allegations of sexual harassment in a confidential manner.
- (iv) Any person bringing allegation of sexual harassment to the attention of management will be protected against victimization
- (v) Whilst Management will act against anyone who commits acts of sexual harassment it will also protect employees against false accusation.
- (vi) Subject to an investigation, management may suspend an employee on 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

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any wrongdoing.

(vii) Ensure that persons such as customers, suppliers, job applicants and others who have dealings with the business are not subjected to sexual harassment

(viii) Promoting awareness programmes designed to prevent sexual harassment in the workplace. (ix) Making known the employer's policy, including the procedures for resolving complaints.

### **6.3. SPECIFIC CONSIDERATION**

#### **6.3.1. CONFIDENTIALITY**

The employer must ensure employee confidentiality and protection while dealing with investigation into the alleged sexual harassment due to its sensitivity.

#### **6.3.2. IDENTITY**

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

#### **6.3.3. PROTECTION**

The employer must investigate the reported sexual harassment, whether it was reported formally or informally to avoid legal steps that may be instituted against the employer should the matter not be resolved adequately. It shall become the responsibility of the employer to give the harassed employee adequate sick leave and or assistance for counselling. Counselling will also be provided to the accused harasser on request if acquitted.

### **6.4. PROCEDURES FOR RESOLVING COMPLAINTS**

The efficient and effective way.

procedure to give effect to this policy should ensure the resolution of problems in a sensitive

#### **6.4.1. ADVICE AND ASSISTANCE**

(a) It should be noted that Sexual harassment is a sensitive matter and the victim may not feel comfortable to approach the perpetrator, lodge a formal grievance or turn to colleagues for support. (b) The employer shall designate the Assistant Director: Human Resources to deal with matters of sexual harassment in the workplace.

(c) The name and location of the designated person will be communicated to all employees and the employer will put appropriate measures to support the person in fulfilment of his/her duties.

#### **6.4.2. PROCEDURES ON ADVICE OF SEXUAL HARASSMENT**

Employees have two options to resolve the sexual harassment conflict:-

##### **(a) Informally procedure**

It may be sufficient, depending on the circumstances and the identity of the perpetrator, for the victim to request his/her supervisor, departmental head or in a very sensitive case, the designated person to create an opportunity where the victim can explain to the perpetrator that the behaviour displayed is unwanted and interferes with his/her work.

##### **(b) Formally procedure**

***The victim may choose to follow the formal procedures as follows: -***

- (i) The victim shall submit a written complaint on sexual harassment to the Assistant Director: Human Resources, who shall handle it with caution.
- (ii) The audi alteram partem rule must apply where the alleged perpetrator should be given an opportunity to state his side of the story in writing.

**6.4.3. INVESTIGATION AND DISCIPLINARY ACTION**

- (a) The sexual harassment case should be investigated with caution, taking into account the sensitivity it has. It shall be done without bias, favouritism and in a confidential manner that will protect the affected employees.
- (b) Employers and employees must ensure that the complaint about sexual harassment are investigated and handled in a manner that ensures that the identities of the persons involved are kept confidential.
- (c) Management, employees and the parties concerned must endeavour to ensure confidentiality in the disciplinary enquiry i.e only appropriate members of management as well as the aggrieved person, representatives and the alleged perpetrator, witness and interpreter if required, must be present in the disciplinary enquiry.
- (d) If the outcome of the enquiry proved that there has been sexual harassment, the perpetrator will undergo disciplinary hearing.
- (e) However, if the opposite is true that sexual harassment did not take place, the complainant may be dealt with following the disciplinary procedure.
- (f) Victimisation or retaliation against the employee who lodged a grievance of sexual harassment will not be tolerated and will constitute a disciplinary offence.
- (g) In case where sexual harassment has taken place, the employer will be obliged to support the victim by offering sick leave and counselling.

**6.4.4. CRIMINAL AND CIVIL CHARGES**

Despite the internal investigations and disciplinary action taken against the perpetrator, the victim has the right to press separate criminal/civil charges against the alleged perpetrator and the legal rights of the victim are in no way limited.

**7. 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 CCMA for conciliation. 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


#### **8. COMMUNICATION**

The policy will be communicated to all employees using a full range of communication methods available in the municipality.

#### **9. POLICY REVIEW**

The policy shall be reviewed yearly from the date of approval.

**Authority**



**MR M KUNENE  
MUNICIPAL MANAGER**

3 / 07 / 23  
**DATE**