**SEXUAL**

**HARASSMENT**

**AND BULLYING**

**POLICY**

**INTRODUCTION**

**1. PURPOSE**

The purpose of the Sexual Harassment and Bullying Policy is to highlight the seriousness of Sexual Harassment and Bullying in the workplace, and outlines the consequences of such behavior. Sexual Harassment and Bullying in the workplace, in whatever form, is not tolerated and is taken very seriously. We strive to provide a working environment where the integrity and dignity of individuals are respected. All people who have dealings with the company, whether a manager, employee, contractor, job applicant or a member of the public, have the right to a working environment free from intimidation, harassment and bullying. All forms of sexual harassment and bullying are unacceptable and no form of harassment and bullying shall be tolerated at work or outside of work.

**2. SCOPE**

This policy is equally for both men and women and provides employees, who are the victims of sexual harassment and bullying, with a means of redress. Non-employees who are harassed or bullied by employees, may lodge a grievance with the company in terms of this policy, where the harassment or bullying has taken place in the workplace, or during the course of the harasser’s or bully’s employment.

**3. RESPONSIBILITY**

3.1 **Responsibility of Employees**

All employees have a personal responsibility for applying the Company’s policy and for behaving in a considerate and respectful way to one another. Aggrieved employees are encouraged to bring incidences of sexual harassment or bullying to the attention of the Company as soon as reasonably possible. In instances where considerable time has elapsed between the sexual harassment or bullying occurring and the incident being reported, due consideration should be given to the reasons for delay, for example ‘passive coping mechanisms’.

3.2 **Responsibility of Employer**

The company will:

* Treat all complaints of sexual harassment and bullying seriously and all dealings will be dealt with in the strictest of confidence.
* Create awareness of conduct that may be construed as sexual harassment and/or bullying.
* Act upon all complaints to ensure that they are resolved quickly, confidentially and fairly.
* Discipline anyone who was found to have sexually harassed or bullied a person or a group of people in the workplace.
* Take disciplinary action against managers who become aware of sexual harassment and/or bullying within their areas of responsibility and do not institute appropriate action to such behaviour.

**4. DEFINITIONS**

4.1 **What is Sexual Harassment?**

Sexual harassment is unwanted or unwelcome conduct of a sexual nature that violates the rights of an employee and constitutes a barrier to equity in the workplace. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutual. In the working environment, it is regarded as a form of unfair discrimination because a person who is sexually harassed or bullied is being treated differently.

4.2 **How do I assess whether something is Sexual Harassment or not?**

* Is the sexual harassment or bullying on prohibited grounds of sex, gender and/or sexual orientation?
* What is the impact of the sexual conduct on the aggrieved party, i.e. impairing of dignity, taking into account the circumstances and/or positions of the aggrieved person and alleged harasser?
* Has the recipient made it clear that the behaviour is considered offensive and/or unacceptable?
* Has the recipient walked or pulled away or simply has not responded to the harasser?
* Was the behaviour persisted in, although a single incident of unwelcome sexual behaviour can constitute sexual harassment?

It must be noted that whilst a harasser should have known that the behaviour is regarded as unacceptable, the impact of the harassment on the harassed person is of prime importance.

4.3 **Examples of Sexual Harassment**

With harassment, the unwanted nature of behaviour is a key determining factor. Sexual harassment may take many forms, from relatively mild sexual banter to actual physical violence. It includes victimizing someone for refusing to submit to sexual harassment by humiliating or belittling such a person. Harassment creates a hostile working environment where people are, amongst others, treated differently and/or robbed of their dignity. The following examples are not an exhaustive list:

* *Physical* contact e.g. touching, patting, pinching or constant brushing against another’s body, sexual assault and rape, a strip search by or in the presence of the opposite sex.
* *Verbal* forms e.g. unwelcome innuendoes, insensitive jokes or pranks, proposals, suggestions and hints, sexual advances and persistent requests for social activities (after it has been made clear that such requests are unwelcome), flirtations, sex-related jokes 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, unwelcome whistling directed at a person or group of persons and the sending by electronic means or otherwise of sexually explicit text.
* *Non-verbal* forms e.g. unwelcome gestures, indecent exposure and the unwelcome display or sending by electronic means or otherwise of sexually explicit or suggestive pictures and objects.
* *Quid pro quo* harassment e.g. a supervisor, manager or colleague, undertaking or attempting to influence the process of employment, promotion, training, discipline, dismissal, salary increments or other benefits of an employee or job applicant, in exchange for sexual favors, for example, threat of dismissal or loss of promotion for refusal of sexual favors.

Sexual harassment should not be confused with employees flirting with each other, or becoming involved in a romantic or sexual relationship, where the relationship is consensual, welcome and reciprocated. If one of the employee’s changes his or her mind and the other person persists in trying to continue the relationship or conduct, it becomes harassment. Previous consensual participation in sexual conduct does not necessarily mean that continued conduct is welcome.

4.4 **What is Bullying?**

Bullying is defined as any unsolicited or unwelcome act that humiliates, intimidates or undermines the individual involved. It may take many forms and must be viewed in terms of the distress that it can cause an individual.

Bullying is harmful, as it causes distress and can lead to stress, illness and poor performance. It can also reduce the effectiveness of the Company by:

* Undermining the confidence of those employees who are bullied.
* Creates a threatening and toxic working environment.
* Increases sickness and/or absenteeism.
* Increases labour turnover.

4.5 **Examples of Bullying**

With bullying, it is the perceptions of the recipient that determines whether any action or statement can be viewed as bullying. The examples of bullying behaviour below are not exhaustive. The actions listed must be viewed in terms of the distress that it can cause an individual.

* Derogatory remarks
* Insensitive jokes or pranks
* Insulting or aggressive behaviour
* Ignoring or excluding an individual
* Setting unrealistic deadlines
* Public criticism
* Substituting responsible tasks with menial or trivial ones
* Withholding necessary information
* Constantly under-valuing effort

**5. RIGHTS OF THE PARTIES**

5.1 **Rights of the Aggrieved Party**

The aggrieved party has the right to:

* file a complaint and have it dealt with promptly, without fear of embarrassment or reprisal;
* have a readily available fellow employee of their choice accompany them during the process;
* make sure that no record of the complaint is placed on their personal file, as long as the complaint was in good faith;
* be informed about the progress of the complaint;
* be informed of the type of corrective measures that will result from the complaint;
* receive fair treatment;
* not be victimized or retaliated against for in good faith lodging a complaint of sexual harassment.

5.2 **Rights of the Alleged Harasser and/or Bully**

The alleged harasser and/or bully have the right to:

* be informed of the complaint;
* be given a written statement of the official allegations, and to respond to it;
* have a readily available fellow employee of their choice accompany them during the process;
* be informed of the progress of the complaint;
* receive fair treatment.

**6. UNSUBSTANTIATED COMPLAINTS**

If a person files an harassment or bullying complaint that is not supported by evidence gathered during the investigation, that complaint will be dismissed and no record of it will be put on the alleged harasser’s or bully’s file. As long as the complaint was made in good faith, there will be no penalty to the aggrieved party, and no record on their file. However, in the event that the complaint was made in bad faith, the person filing the complaint had no basis and deliberately and maliciously filed a complaint, that person will be disciplined and a record of the incident will be put on their file.

**7. CONFIDENTIALITY**

The Company will not disclose an aggrieved party’s or alleged harasser’s or bully’s name, or any circumstances related to sexual harassment or bullying complaint, to anyone, except as necessary to investigate the complaint or take disciplinary action related to the complaint, or as required by law.

**8. PROCEDURE**

8.1 **Informal Remedy**

8.1.1 Any person considering themselves to be a victim of sexual harassment and/or bullying, is encouraged to make it clear to the harasser or bully that the behaviour is unwelcome, unacceptable and must stop. Alternatively, such aggrieved person may request a manager or member of the Human Resources Department to, on their behalf, approach the harasser or bully informally, and explain that the conduct in question is unwelcome, offends the aggrieved person, and/or interferes with the aggrieved party’s work.

8.1.2 Alternatively such a manager or Human Resources Representative may approach the sexual harasser or bully, without revealing the identity of the complainant, and explain to the sexual harasser or bully that certain forms of conduct constitute sexual harassment or bullying, are offensive and unwelcome, make employees feel uncomfortable, and interfere with their work.

8.1.3 The aggrieved person should keep a written record of any instance of sexual harassment or bullying, including the date, time and the nature of the incident, the names of those involved as well as the names of the witnesses. Whenever possible, any complaint of harassment or bullying should be made, in the first instance, to the direct manager. The Human Resources department can also give confidential support and advice at any time.

8.2 **Formal Remedy**

Where an informal procedure fails to stop harassment or bullying, or an aggrieved party wishes to have their complaint dealt with formally, a formal complaint should be filed.

Complaint in writing

The complaint should state the following:

* The name of the alleged sexual harasser or bully.
* The nature of the sexual harassment or bullying.
* Dates, times and place when the sexual harassment or bullying occurred.
* Names of any witnesses to the sexual harassment or bullying.
* Any action already taken to stop the sexual harassment or bullying.

After the Investigation

* If the information gathered suggests that sexual harassment or bullying has occurred, the Human Resources Manager will decide what remedies will be provided to the aggrieved party. Disciplinary action will be taken where appropriate. The outcome will depend upon the particular facts of each case.
* Where a written or verbal warning is given, this may be coupled with action to ensure that the victim is able to continue working without intimidation or undue anxiety, either by transfer of the sexual harasser or bully, or the aggrieved party, or amendment of working practices.
* Serious incidents can constitute gross misconduct for which an employee may be summarily dismissed.

8.3 **Dissatisfied with the Outcome**

Should there be any dissatisfaction regarding the decision, both parties have the right to appeal.

8.4 **Harassment or Bullying by Third Parties**

Where an employee is harassed or bullied by a customer, supplier or other business contact, they should raise this promptly through the grievance procedure, or this sexual harassment and bullying procedure.

**9. IMPORTANT**

This policy on Sexual Harassment and Bullying is a guideline only and does not give any contractual rights to employees.

Sexual Harassment and Bullying in the workplace will be treated as serious offences and may result in summary dismissal.