

## NTINGA O.R. TAMBO DEVELOPMENT AGENCY SOC LTD



## SEXUAL HARASSMENT POLICY & PROCEDURE

<b>POLICY NUMBER</b>	3/P
<b>POLICY TYPE</b>	Human Resource Policy
<b>COMMENCEMENT DATE</b>	19 January 2021
<b>APPROVAL DATE</b>	19 January 2021
<b>INITIAL APPROVAL DATE</b>	03 August 2017
<b>PREVIOUS REVIEWALS</b>	01
<b>NEXT REVIEW DUE</b>	30 January 2022
<b>RESPONSIBLE MANAGER</b>	Head: Corporate Services

## **Policy – Handling of Sexual Harassment**

### **1. Statement of Intent**

1.1 Ntinga O. R Tambo Development Agency SOC Ltd (“Ntinga” or “The Agency”) is committed to providing a working environment which :

1.1.1 ensures the dignity of all persons;

1.1.2 is safe and secure, and

1.1.3 is free from all forms of sexual harassment.

1.2 This policy should be read in conjunction with the following Agency documents: the Employment Equity Policy, the Employment Equity Plan, and the Labour Law, and the Code of Good Practice/Conduct.

### **2. Application**

2.1 This policy applies to:

2.1.1 all employees, regardless of seniority or contractual status, that is permanent, short-term contract, and casual employees,

2.1.2 all Board members, executive and non-executive Directors, owners and shareholders,

2.1.3 all contractors and sub-contractors, and all persons from labour brokers and personnel agencies,

2.1.4 all applicants for employment, and

2.1.5 all persons dealing with the Agency, clients, customers, suppliers, and with whom employees interact personally or by telephone, or by electronic communication, including written communication, web-sites and emails.

### **3. Policy Statement**

- 3.1 Ntinga O.R Tambo Development Agency SOC Ltd is committed to the implementation of, and compliance with, all employment legislation and in terms of this policy, particularly the Labour Relations Act, the Employment Equity Act, and the Code of Good Practice on the Handling of Sexual Harassment Cases.
- 3.2 The Agency is committed to the implementation of the following procedures, to the training of all employees in what constitutes sexual harassment, how complaints may be lodged, and how the complaints should be dealt with by supervisors and managers.

### **4. Definition – What Constitutes Sexual Harassment?**

- 4.1 What one employee may find innocuous behaviour that is not intended to cause offence - may be deeply concerning to another employee; what is central to this procedure is how the recipient – the receiver - of the behaviour feels or experiences the behaviour.
- 4.2 The behaviour may be any single communication, or a range of communication, which may be verbal, or non-verbal such as touching or patting, or may be communicated by documents, or by telephone, cell-phone messages, web site communication, or emails.
- 4.3 The content of the behaviour may be:
- 4.3.1 verbal sexual innuendo, such as: unwelcomed jokes, suggestions, or hints about sexual behaviour, comments about physical appearance, particularly in front of others in a group, and particularly where there is a gender imbalance in the group such as a single woman in a group of men, or
  - 4.3.2 physical contact such as holding onto a hand or arm longer than is necessary, or touching particularly sensitive parts of the body, or
  - 4.3.3 non-verbal communication such as gestures of a sexual nature, removal of clothing to display parts of the body (flashing), or

- 4.3.4 the display, giving or sending of offensive pictures, or verbally offensive material, particularly of a sexual nature,
  - 4.3.5 demands or offers, such as for sexual attention, or to spend time together, or
  - 4.3.6 following, stalking, persistent visiting, telephoning, sending of cell-phone messages, or other invasions of personal privacy.
- 4.4 The behaviour will be more seriously regarded if it suggests any outcome following the behaviour, such as:
- 4.4.1 recruitment, or promotion, or achieving a privileged position such as a board member, or special committee member,
  - 4.4.2 positive performance appraisal result, or career advancement,
  - 4.4.3 increased remuneration, or bonus, or allowances, or
  - 4.4.4 any other form of benefit or enhancement such as travel, particularly overseas, or training, or conference attendance or entertainment.
- 4.5 The behaviour may be a single incident or continuous unwelcome behaviour.
- 4.6 The behaviour will be unwelcome, if the receiver of the behaviour has made it clear that the behaviour is offensive and unwelcome, or alternatively the person responsible for the behaviour should have known that the behaviour would be unwelcome or unacceptable, particularly where the receiver of the behaviour is junior and indicating that the behaviour is unwelcome to a senior would be difficult.
- 4.7 As technology advances, there are increased opportunities for the communication of sexually offensive verbal and visual images; therefore this policy anticipates a range of communication, all of which will be regarded as offensive regardless of the format or style of the communication.

## **5. How to Lodge Complaints**

- 5.1 The receiver of the behaviour should indicate both verbally and non-verbally that the behaviour is considered offensive and is unwelcome, and specifically requesting the person responsible to stop the behaviour.
- 5.2 Where the receiver feels that they cannot do this, or they have done this but the behaviour continues, the receiver may either ask for the behaviour to be dealt with informally, or use the formal Grievance Procedure.
- 5.3 **Informal Procedure**
- 5.3.1 The receiver may approach someone whom they feel confident and comfortable to approach, such as: a member of the employment equity consultative forum, or a member of the Human Resources Department, or their own Manager, or the Manager of the person responsible for the behaviour.
- 5.3.2 The person approached will endeavour to assist the receiver of the behaviour to resolve the matter by means of informal meetings and discussions; the format and style of these discussions will depend on the level of seniority of the persons involved, whether they are internal or external to the Agency, and the nature of the behaviour.
- 5.3.3 It may be possible for example, for a Manager of the person responsible for the behaviour to meet with that person and indicate that the behaviour is unwelcome, is regarded as harassment, and should stop. This approach will be effective if the person has not seen the behaviour as sexual harassment and if it involves a number of persons, the person bringing the complaint may remain anonymous.
- 5.3.4 All persons involved in seeking resolution of the unwelcome behaviour will respect the dignity and confidentiality of the persons involved.
- 5.3.5 In terms of the requirements of the Employment Equity Act, complaints of sexually offensive behaviour should be brought to the attention of the employer immediately; therefore this should be made clear to the complainant.

5.3.6 If the informal procedure does not resolve the behaviour, then the receiver may proceed to the Formal Grievance Procedure to obtain resolution.

## **6. Confidentiality, Record-Keeping and Media Statements**

6.1 At all stages of the procedures, informal and formal, and from the first discussions when the potential allegations of sexual harassment are discussed, all parties to the discussion are required to be aware of the sensitivity of the matters under discussions, the potential impact on individual lives and careers, and to exercise extreme caution in the disclosure of the information, and where possible to maintain the confidentiality of the receiver and complainant and the person responsible for the behaviour.

6.2 Once the procedures are concluded, the documents should be filed in sealed envelopes marked confidential, and lodged with the person responsible for the retention of personnel records.

6.3 Any requests for information from Media sources should be referred to the person within the Agency responsible for Media briefings.

## **7. Management Responsibility**

7.1 Management has a general responsibility to ensure that all allegations of sexual harassment are handled in a sensitive manner, with respect for the dignity of the persons involved.

7.2 Management have an additional duty to ensure a safe and secure workplace, and if there is any indication that there may be a physical threat of danger to any person, professional advice should be sought from internal persons responsible for safety and security, and where appropriate from external authorities and professional persons.

7.3 Management is responsible for ensuring that the allegations are dealt with timeously, with due seriousness and confidentiality; and that the allegations are dealt with in a manner which achieves a resolution of the behaviour, rather than in a mechanistic procedural manner.

## **8. Physical and Mental Health**

- 8.1 Management may seek appropriate professional advice and arrange for trauma counselling for the complainant; where this is required the initial trauma counselling should take place within a few days of the incident; follow-up counselling over a longer period may also be necessary.
- 8.2 Leave of absence may also be necessary, and Management will give permission for this, and if the complainant's sick leave entitlement is exhausted, additional sick leave may be granted.

## **9. Disciplinary Action**

- 9.1 After the complaint has been investigated, Management will decide on whether disciplinary action is appropriate:
- 9.1.1 where the behaviour was not intended to cause offence, and is of a less serious nature, such as use of inappropriate words, or jokes, or simple contact cell-phone messages, or invitations, counselling of the person responsible for the behaviour may be appropriate;
  - 9.1.2 repeated incidents of less serious behaviour, or more serious behaviour may lead to a warning or a final warning;
  - 9.1.3 serious incidents of sexual harassment may lead to summary dismissal;
  - 9.1.4 where appropriate and where possible with the Agency structure, and depending upon the nature of the work undertaken by the complainant and the person responsible for the behaviour, sanctions to avoid dismissal such as transfer to a different position or department may be considered.

## **10. Training and Development**

- 10.1 All Senior Management and Managers are required to attend executive briefings on their legal duties and responsibilities in the handling of sexual harassment allegations.

- 10.2 All Management and Supervisors are required to attend the training on how to handle allegations of sexual harassment brought to their attention, either informally, or as part of the formal Grievance Procedure.
- 10.3 All new employees are required to be made aware of this policy and to be encouraged to ask questions and to seek clarification on any aspect of the policy which is not clear.
- 10.4 Skills training is also be required for those who may receive the complaints, not only on how to deal with the complaints, but also mediation and conflict resolution skills, and delegates to these training workshops should include: members of the Employment Equity Consultative Forum, Employee Committee Representatives, Supervisors, Managers, and Human Resource Personnel.

## **11. Relevant legislation, Codes of Good Practice, and Reading**

### **11.1 Legislation**

- 11.2 The Constitution, Act 108 of 1996 particularly sections: 9, 10, 12, and 14,
- 11.3 The Labour Relations Act 66 of 1995,
- 11.4 The Employment Equity Act 55 of 1998, particularly sections 5, 6, 10,11, 21, 51, 52, 54, and 60.

### **11.2 Code of Good Practice**

- 11.2 Amended Code of Good Practice on the Handling of Sexual Harassment Cases in the Workplace – Government Gazette 27865 4 August 2005

## **12. Monitoring and Evaluation**

The HR section is responsible to monitor closely the compliance with the laid out on Sexual Harassment procedure and the application of disciplinary sanctions/ penalties as stipulated in this policy.

This Policy will be communicated to all employees using the full range of communication methods available to the Agency and posted on the Agency's



website. It is however the responsibility of each Department/ Section Head to monitor adherence to the Sexual Harassment policy.

### 13. Policy Review

This policy shall be reviewed annually to determine its effectiveness and appropriateness. This policy may be assessed before that time as necessary to reflect substantial organisational changes at the Agency or any change required by law.

### 14. 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 Disciplinary Code and Procedure.

### 15. Dispute Resolution

Internal dispute resolution processes shall be followed in the event of any grievances and dispute arising out of the implementation of this policy.

### 16. Approval and Signatures

FORMULATED BY:  DATE .....

CEO RECOMMENDATION:  DATE .....

BOARD APPROVAL:  .....

