



SEXUAL HARRASMENT POLICY

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PREAMBLE

The Municipality is committed to ensure that employees are not subjected to any form of sexual harassment. Persistent, unsolicited, and unwanted sexual advances or suggestions made by one to another, regardless of gender and/or sexual orientation will not be tolerated. Violations of this Policy will lead to disciplinary action, which will include dismissal, and/or criminal charges.

All Managers in the Municipality, have a responsibility for addressing all reports of harassment.

It is the policy of GT LM that every employee, like all other people, is entitled to be treated fairly and with dignity.

Not only is this a social norm supported by the law, but respect for fairness and human dignity is an important cornerstone of harmonious employee relations and workplace effectiveness. The law also protects employees from harassment and from unfair discrimination,

The policy against sexual harassment applies equally whether it is perpetrated:

- Against men or women
- By men or women
- Across the same or opposite genders

Greater Taung Local Municipality also discourages false claims of sexual harassment. This does not mean that it should not be reported if you try believing you are a victim.

2. DEFINITIONS

Sexual harassment	Means an unwanted conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and with mutual consent.
Sexual attention becomes sexual harassment if:	<ul style="list-style-type: none"> • The behaviour is persisted in, although a single incident of harassment can constitute sexual harassment. • The recipient had made it the behaviour is considered offensive; and/or • The perpetrator should have known that the behaviour is regarded as unacceptable.

Stalking on the Internet	A circumstance in which a coworker harasses a colleague by keeping track of everything they are doing on social media or through blog postings. A group of coworkers can also make a blog article or a website to annoy other colleagues.
Harassment on the Internet	Whenever a company, manager, employee, or teammate uses social media sites like Facebook or Twitter to send unpleasant remarks or texts to another coworker, this is known as virtual harassment.
Harassment through text	When a coworker is intimidated, harassed, or sent improper remarks by another coworker. Harassment in the form of sexting is a type of harassment. One individual sends video or photographs to another person via digital communication, but the recipient is upset.

3. LEGISLATIVE FRAMEWORK

This policy is guided by but not limited to the following:

- Code of Good Practice as contained in Schedule 8 of the Labour Relations Act, 1995
- NEDLAC Code of Good Practice on the Handling of Sexual Harassment Cases.
- Employment Equity Act of 1998

4. SCOPE OF APPLICATION

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

Although this policy is intended to guide employers and their employees, the perpetrators and victims of sexual harassment may include:

- Managers
- Supervisors
- Co-employees

- Subordinates
- Job applicants
- Clients
- Suppliers
- Learners/ interns
- Casual employees employed on fixed term contract
- Others who have dealings with the Municipality.

5. OBJECTIVES OF THE POLICY

5.1 Policy objectives are to endure:

5.1.1 Sexual harassment will not be permitted or condoned as will be regarded as a form of serious misconduct. Action will be taken in terms of the disciplinary code of the Municipality.

5.1.2 Employees or any other person who have been subjected to sexual harassment have the right to lodge a grievance or lay a formal complaint with the Municipality.

5.1.3 The Municipality is committed to investigate all complaints and grievances brought to its attention.

5.1.4 The Municipality undertakes to inform all employees of this Policy and the need to refrain from any form sexual harassment.

5.1.5 It should be noted that this Policy also protects prospective employees as well as clients of the Municipality.

5.1.6 Management is required to implement this policy and take disciplinary action against employees who do not comply with this policy. Serious incidents of sexual harassment or continued harassment are dismissible offences.

5.1.7 It is a disciplinary offence to victimise or retaliate against an employee who in good faith lodged a complaint of sexual harassment.

5.1.8 False or vindictive accusations shall be viewed in a very serious light.

5.1.9 Anonymous complaints will be disregarded.

6. GENERAL PRINCIPLES

6.1 The employer wishes 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.

6.2 The employer views sexual harassment of a fellow employee or of a non-employee as a serious misconduct.

6.3 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 employer has acted appropriately.

6.4 In addition, victims of sexual harassment must not be made to feel that their grievances are ignored or trivialized, or fear reprisals. Implementation of the following guidelines can assist in achieving those 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 behaviour on the part of others.
- Management will attempt to ensure that persons such as the public, suppliers, job applicants and others who have dealings with the organisation, are not subjected to sexual harassment, which occur within the workplace.
- A victim of sexual assault/harassment has the right to institute separate criminal and/or civil proceedings against an alleged perpetrator and the legal rights of the victim are in no way limited by this policy.

6.4 Commitment by Employer

6.4.1 The employer undertakes to deal with any allegations of sexual harassment speedily and without favour.

6.4.2 Employer further undertakes to deal with allegations of sexual harassment in a confidential manner.

6.4.3 Any person bringing allegations of sexual harassment to the attention of the employer will be protected against victimisation.

6.4.4 Whilst employer will act anyone who commits acts of sexual harassment it will also protect employees against false accusations.

6.4.5 Subject to an investigation, employer may suspend an employee on full pay but this is to be regarded as precautionary measure only and does not in any way imply that the employee is guilty of any wrongdoing.

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

6.5 Specific considerations

6.5.1 Confidentiality

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

6.5.2 Identity

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

6.5.3 Protection

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

7. PROCEDURES

7.1 The employer should develop clear procedures to deal with sexual harassment. These procedures should ensure the resolution of problems in a sensitive, efficient and effective way.

7.1.1 Advice and assistance

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

- Could include persons employed by the Municipality to perform inter alia such as function, a trade union representative or co-employee, by outside professionals.
- Should have the appropriate skills and experience or be properly trained and given adequate resources.
- Could be required to have counselling and relevant labour relations skills and be able to provide and advise on a confidential basis.

7.1.2 Options to resolve a problem.

7.1.2.1 Employees should be advised that there are, depending on the seriousness, two options to resolve a problem relating to sexual harassment. Either an attempt can be made to resolve the problem in an informal way or formal procedure can be embarked upon.

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

7.2 The informal procedure

7.2 .1 The informal procedure shall be used for some forms of sexual harassment. This procedure shall not be used for cases that involve sexual assault, rape, strip search by or in the presence of the opposite sex, persistent forms of sexual harassment, unless the aggrieved party chooses to follow an informal procedure.

7.2.2 It may be sufficient for the employee concerned to have an opportunity to explain to the person engaging in the unwanted conduct that the behaviour in question is not welcomed, That it offends them or makes them uncomfortable and that it interferes with their work.

7.2.3 Should the informal mediation succeed in resolving the matter, no disciplinary action shall be taken against the alleged harasser.

7.2.4 The aggrieved party and the alleged offender shall be referred to relevant trauma crisis centres for counselling should they wish to do so. This will be the responsibility of GTLM in a case where the alleged offender is found innocent.

7.3 The formal procedure

7.3.1 If the informal procedure does not resolve the matter satisfactorily, if the case is severe or if the conduct continues, it may be more appropriate to embark upon a formal procedure. Severe cases may include: sexual assault, rape, strip search and quid pro-quo harassment.

7.3.2. Where a formal procedure has been chosen by the aggrieved, a formal procedure for resolving the grievance to available and attached hereto:

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

7.4 Investigation

7.4.1 Care should be taken during any investigation of a grievance of sexual harassment that the aggrieved person is not disadvantaged and that the position of other parties is not prejudiced if the grievance is found to be unwanted.

7.4.2 The Code of Good practice regulating dismissal contained in Schedule of the LRA, reinforces the provisions of Chapter V111 of this Act and provides that an employee may be dismissed for serious misconduct or repeated offences. Serious incidents of sexual harassment or continued harassment after warnings are dismissible offences.

7.4.3 The range of disciplinary sanctions to which employees will be liable should it be clearly stated, and it should also be made clear that it will be a disciplinary

offence to victimise or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

7.4.4 Criminal and civil charges

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

7.4.5 Confidentiality

6.3.7.1 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.

7.4.6 In cases of sexual harassment, management, employees and the parties concerned must endeavour to ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the aggrieved person, representative, alleged perpetrators, witnesses and interpreter if required must be present in the disciplinary enquiry.

7.4.6 Disciplinary action

Any disciplinary action that may be initiated, shall be dealt with in accordance with the Collective Agreement on Disciplinary Code of SALGBC.

8. FORMS OF SEXUAL HARASSMENT

8.1 Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, but it is not limited to the following examples:

- Physical contact
- Suggestions/hints/comments
- Advances
- Jokes
- Insults
- References to the person's body
- Gestures or whistling
- Indecent exposure

- Display of explicit pictures, images or objects
- Enquiries about a person's sex life.
- Influencing the process of employment, promotion, training, discipline, dismissal, salary increase, benefits or other rewards in exchange of sexual favours.
- Strip search in the presence of a member of the opposite sex or same sex. ▫ Assault of rape.

8.2 Social media harassment in the workplace

8.2.1 The following are the examples of occupational social media harassment:

- Stalking on the Internet
- Harassment on the Internet
- Harassment through text

9. PREVENTATIVE MEASUREES

9.1 To eliminate sexual harassment in GTLM and to provide appropriate procedures to deal with the problem and prevent its recurrence.

9.2 To encourage, promote and create a workplace free of sexual harassment, in which employees respect one another's integrity and dignity, their privacy, and the right to equality in the workplace.

9.3 To deal with sexual harassment cases in a very sensitive, prompt, unbiased and confidential manner.

9.4 To ensure that neither the aggrieved nor the alleged harasser is victimized in any way by either management or workers,

9.5 To prevent employees, including job applicants, casuals and parttime employees from requesting or compelling to engage in sexual activity in return for employment, job retention, salary increase, promotion, or service benefits.

9.6 To guarantee job security and job related benefits of the aggrieved.

9.7 To ensure that all employees in the Municipality are conversant with sexual harassment and it's related behaviour.

10. EMPLOYEE ASSISTANCE

10.1 Where an employee's existing sick leave entitlement has been exhausted, the employer will give due consideration to the granting of additional sick leave in cases of serious sexual harassment where the employee, on medical advice, required trauma counselling,

10.2 In cases where the victim or the perpetrator has suffered emotional or physical stress, the Municipality shall, as a result of Medical Practitioner's recommendation, grant the individual sick leave for trauma therapy.

10.3 Depending upon the environment and the extent of the relation between the aggrieved and the alleged harasser, the former, after having formally lodged the sexual harassment claim and during investigations, may be granted special paid vacation leave pending the outcome of the investigations.

10.4 The Human Resource Unit of the Municipality shall utilise the Employee Assistance Program (EAP) in dealing with this Clause.

11. CONFIDENTIALITY

11.1 Although it might be difficult to guarantee confidentiality in sexual harassment cases given the legal duties involved and frequent conflict of rights and obligations, the Municipality has got the duty to ensure limitations on the number of persons that will have to be acquainted with that case.

11.2 Both the employer and the employees must undertake reasonable steps to ensure that sexual harassment complaints are investigated and handed in a manner whereby the identities of the persons involved are kept confidential.

11.3 Management, employees and the parties concerned shall endeavour to ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the aggrieved, alleged harasser, witnesses, and interpreter, when necessary, shall be present in the disciplinary enquiry sessions.

12. DISPUTE RESOLUTION

14.1 Any grievance/complaint arising from this policy must be dealt with in accordance with Clause 13 of the Main Collective Agreement.

13. POLICY REVIEW

13.1 This policy shall be reviewed as and when necessary, in compliance with the relevant legal framework.