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1. ****INTRODUCTION****
   1. This policy intends to eliminate sexual harassment in the workplace and provides appropriate procedures to deal with the problem and prevent its recurrence.
   2. This policy encourages the creation of a workplace that are free of sexual harassment, where the employer and employees respect one another's integrity and dignity, their privacy and their right to equity in the workplace.
2. ****PURPOSE AND OBJECTIVES****
   1. To provide for a comprehensive policy which shall address, prevent and curb sexual harassment within the Cederberg Municipality in the most efficient, professional and cost-effective way and is compliant with the Amended Code of Good Practice on the Handling of Sexual Harassment Cases in the Workplace, 2005.
   2. The desired outcome of this policy and procedure is to make everyone better understand the seriousness of all acts of sexual harassment whether intentional or negligent, as well as to deal with such issues decisively.
   3. To provide a work environment free from harassment of any kind and in particular sexual harassment. In this regard the respect of individual dignity of everyone in the Municipality is of critical importance.
   4. To prevent abuse of human rights.
   5. To promote a professional relationship amongst all employees.
   6. To promote a professional client relationship.
   7. To have guidelines in dealing with incidents of sexual harassment.
   8. To promote mutual respect between employees and the employer.
   9. To guide employees, perpetrators and/or victims of sexual harassment which include:
      1. Employees.
      2. Job Applicants.
      3. Clients.
      4. Suppliers.
      5. Contractors.
      6. Other Customers/Service Providers having dealings with the Cederberg Municipality.
   10. To ensure all employees share a common understanding of the following:

* + 1. Sexual harassment definitions.
    2. Grievance procedures.

1. ****SCOPE AND APPLICATION****
   1. Although this Policy is intended to guide the employer and employees, the perpetrators and victims of sexual harassment may include managers, supervisors, employees, job applicants, clients, suppliers, contractors and others having dealings with the Municipality.
   2. Any employee who utilizes this policy and the procedure outlined in the policy for reasons other than those highlighted in the policy e.g. falsely accusing a fellow employee/manager for personal reasons or vindictiveness, will be severely disciplined in line with the Council's disciplinary code.
   3. This policy is also applicable to employees who are on official duty after normal working hours.
2. ****DEFINITIONS****

In this policy, unless the context otherwise indicates -

**“Alleged Perpetrator”** means a person alleged to have committed an act of sexual harassment.

**“Complainant”** means a person who lodges a complaint under this policy, or a person against whom acts of sexual harassment as defined in the policy has or have allegedly been perpetrated.

**“Council”** means the Cederberg Municipality as an Employer.

**“Employee”** means any person, excluding an independent contractor, who works for the Cederberg Municipality and who receives, or is entitled to receive any remuneration.

**“Employer”** means the Cederberg Municipality.

**"Independent Contractor"** means a person who has undertaken to perform a specific commission for the Council.

**“Labour Organisations”** means Cederberg Municipality recognised Unions.

**“Part-time employee”** means someone who is in the employ of the Municipality and who is working less than 40 hours per week.

**"Permanent Employee"** means an employee, excluding a contract employee and a temporary employee, occupying a post on the approved staff establishment of the Council in a permanent capacity, whether full-time or part-time, and includes an apprentice and a person appointed in such post for a probationary period.

**“Same Sex Harassment”** means harassment where the alleged perpetrator and the victim are of the same sex

**"Sexual Harassment"** means:

(a) Any unsolicited and unwelcome sexual advances, requests for sexual favours and other verbal or physical conduct of a sexual nature which is made explicitly or implicitly a term or condition of an individual's employment or promotion.

(b) sexual conduct that has the purpose or effect of interfering with an individual's work performance or personal space, thereby creating or tending to create, a hostile or offensive working environment.

(c) Conduct where submission to or the rejection of such an advance is used as the basis of employment decisions affecting an individual.

(d) Any practice or behaviour which implicitly or explicitly determines employment, advancement or job requirements on the basis of submission to or rejection of sexual advances.

**"Temporary Employee"** means an employee, excluding a contract employee, appointed to a post on the approved staff establishment of the Council in a temporary capacity, whether full-time or part-time, for a continuous period not exceeding 3 (three) years.

**“Workplace”** refers to the place of work as contemplated in the Labour Relations Act, 1995 (Act No. 66 of 1995).

**“Unwelcome Sexual Conduct”** includes behaviour that is perceived by the complainant as demeaning, compromising, embarrassing, threatening and/or offensive. It includes physical, verbal and non-verbal conduct.

1. ****LEGAL FRAMEWORK****
   1. This policy and its application must be in accordance with the following legislative prescripts:
      1. The Constitution of the Republic of South Africa, 1996.
      2. Labour Relations Act, 1995 (Act No. 66 of 1995).
      3. Employment Equity Act, 1998 (Act No 55 of 1998).
      4. Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997).
      5. Code of Good Practice in the handling of sexual harassment.
      6. All relevant Collective Agreements.
      7. Council Resolutions and Municipal Manager’s Directives.
2. ****FORMS OF SEXUAL HARASSMENT**** 
   1. Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, but is not limited to the examples listed as follows:
      1. Physical conduct of a sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes a strip search by or in the presence of the opposite sex.
      2. Verbal forms of sexual harassment include unwelcome innuendoes, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults 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, and unwelcome whistling directed at a person or group of persons.
      3. Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
      4. Reverse harassment occurs where an owner, employer, supervisor, member of management or co-employee, undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant, in exchange for sexual favours.
   2. Sexual favouritism exists 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 increases.
3. ****GUIDING PRINCIPLES**** 
   1. The employer should create and maintain a working environment in which the dignity of employees is respected.
   2. A climate in the workplace should also be created and maintained in which victims of sexual harassment will not feel that their grievances are ignored or trivialised, or fear reprisals. Implementing the following guidelines can assist in achieving these ends:
      1. The employer/management and employees are required to refrain from committing acts of sexual harassment.
      2. The employer/management and employees have a role to play in contributing towards creating and maintaining a working environment in which sexual harassment is unacceptable. They should ensure that their standards of conduct do not cause offence and they should discourage unacceptable behaviour on the part of others.
      3. Employees/Management should attempt to ensure that persons such as customers, suppliers, job applicants and others who have dealings with the organisations are not subjected to sexual harassment by the employer or its employees.
      4. The employer/management is required to take appropriate action in accordance with this code, when instances of sexual harassment which occur within the workplace are brought to their attention.
   3. This policy recognises the primacy of collective agreements regulating the handling of sexual harassment cases, and is not intended as a substitute for disciplinary codes and procedures containing such measures, where these are the subject of collective agreements, or the outcome of joint decision-making by an employer and a workplace forum. However, collective agreements and policy statements should take cognisance of and be guided by the provisions of this code
4. ****POLICY STATEMENTS**** 
   1. As a first step in expressing concern and commitment to dealing with the problem of sexual harassment, the Municipality hereby states that:
      1. All employees, job applicants and other persons, who have dealings with the organisation, have the right to be treated with dignity.
      2. Sexual harassment in the workplace will not be permitted or condoned.
      3. Persons who have been subjected to sexual harassment in the workplace have a right to raise a grievance about it should it occur and appropriate action will be taken by the employer.
   2. Management should be placed under a positive duty to implement the policy and take disciplinary action against employees who do not comply with the policy.
   3. Allegations of sexual harassment will be dealt with seriously, expeditiously, sensitively and confidentially.
   4. Employees will be protected against victimisation, retaliation for lodging grievances and from false accusations
5. ****PROCEDURES**** 
   1. Advice and assistance
      1. 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.
      2. The Municipality will refer a victim to appropriate counselling services if deemed necessary.
   2. Informal procedure
      1. It may be sufficient for the employee concerned to have an opportunity where he/she can explain to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work.
      2. If the informal approach has not provided a satisfactory outcome, 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, a strip search and quid pro quo harassment.
   3. Formal procedure
      1. Where a formal procedure has been chosen by the aggrieved, a formal procedure for resolving the grievance is as follows:
6. The employee lodges a written complaint to the relevant Manager or next reporting level.
7. Address grievance within 10 working days.
8. If no resolution, refer to Municipal Manager.
9. Address grievance within 10 working days.
10. If no resolution, refer grievance to the South African Local Government Bargaining Council.
    * 1. Specify to whom the employee should lodge the grievance.
      2. Make reference to timeframes which allow the grievance to be dealt with expeditiously.
      3. Provide that if the case is not resolved satisfactorily, the issue can be dealt with in terms of a disciplinary investigation.
11. ****INVESTIGATION AND DISCIPLINARY ACTION****
    1. Care should be taken during any investigation of 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 unwarranted.
    2. The Code of Good Practice regulating dismissal contained in Schedule 8 of the Labour Relations Act, 1995 (Act No. 66 of 1995) reinforces the provisions of Chapter VIII 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.
    3. The range of disciplinary sanctions to which employees will be liable should 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.
12. ****CRIMINAL AND CIVIL CHARGES****
    1. A victim of sexual assault has the right to press separate criminal and/or civil charges against an alleged perpetrator, and the legal rights of the victim are in no way limited by this policy.
13. ****DISPUTE RESOLUTION**** 
    1. 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 South African Local Government Bargaining Council for conciliation in accordance with the provisions of section 135 of the Labour Relations Act, 1995 (Act No. 66 of 1995).
    2. 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 in terms of section 135[5].
14. ****CONFIDENTIALITY**** 
    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 involves are kept confidential.
    2. 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 perpetrator, witnesses and interpreter if required, must be present in the disciplinary enquiry.
15. ****AMENDMENTS**** 
    1. The Council may from time to time amend this policy and introduce any measure(s) to ensure efficient, economic and effective management of Council resources.
16. ****EFFECTIVE DATE****
    1. The Sexual Harassment Policy will become effective upon approval thereof by the Council of the Cederberg Municipality.