



COUNTY GOVERNMENT OF MAKUENI

SEXUAL HARASSMENT AT WORKPLACE POLICY

CONTACT INFORMATION

For more information contact:

The County Secretary

Government of Makueni County

P.O. Box 78-90300, WOTE

Tel: 0719213805

Email: county.secretary@makueni.go.ke

Website: www.makueni.go.ke

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ABBREVIATIONS AND ACRONYMS

CEDAW	Convention on the Elimination of all Forms of Violence against Women
GBV	Gender Based Violence
GBVRC	Gender Based Violence Recovery Centre
HoDs	Heads of Departments
ILO	International Labour Organization
NGEC	National Gender & Equality Commission
SOA	Sexual Offences Act

DEFINITION OF TERMS

Affair: In the context of employment, an affair is a sexual relationship, romantic or passionate attachment between two people without the attached person's significant other knowing.

Gender: Social construct that differentiates the power, roles, responsibilities, and obligations of women from that of men in society. It determines to a great extent how we think, feel, and what we believe we can and cannot do as women and men.

Gender Harassment: Conduct against a person, behaviour which is known or ought reasonably to be known to be unwelcome, and which is based on the fact that the person belongs to a particular gender.

Gender Based Violence (GBV): Unauthorized or unwelcome conduct which violates a person's physical or psychological being or property, or which results in, or is likely to result in, physical, sexual or mental harm or suffering, and which is based on the fact that the person belongs to a particular gender.

Perpetrator: Person who is a co-employee, officer, supervisor, manager, employer or member of the public who engages in violence or harassment in a workplace.

Physical Assault: Physical force or threat of physical force to create fear and control another person.

Sex: Biological and physiological characteristics that define men and women. Sex differences are God given, universal and unchangeable.

Verbal/Emotional/Psychological abuse: A pattern of behavior that makes someone feel worthless, flawed, unloved, or endangered, and is based on power and control.

Workplace Violence/ Harassment: Any violence or harassment which occurs in a workplace.

Threat: Communicated intent to inflict physical or other harm on any person or to property by some unlawful act.

Sexual Assault: Any unwanted sexual act done by one person to another

Sexual Harassment: Context of employment means a situation where an employer, employee or a representative of that employer or a co-worker a) directly or indirectly requests that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express

- uses language whether written or spoken of a sexual nature
- uses visual material of a sexual nature
- shows physical behaviour of a sexual nature which directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee and that by its nature has a detrimental effect on that employee's employment, job performance, or job satisfaction.

Stakeholders: Persons with vested interest in development of the county such as the an Employer, County Officers, Interns, Attachees, Volunteers, State Officers, all Service Providers, development partners and residents of Makueni County.

PREFACE

The development of the sexual harassment policy has been necessitated by the challenges faced by workers in day to day service delivery endeavors. This is premised on the understanding that for county officers to realize their full potential, a safe and conducive working environment is a requisite. Further, the Government to fulfill her mandate, it requires officers who are motivated and own the Vision and Mission of their Government.

This policy is harmonized with other relevant documents formulated on workplace harassment, and takes into account the fundamental issues that have arisen from past public sector. The policy will go a long way in ensuring fairness, equality and equity. It takes cognizance of the dynamics of gender and sexual harassment issues at the workplace and provides formal and informal problem solving while safeguarding the dignity of the aggrieved and the aggressors.

Employer/ employee and stake holders' relations adversely affect service delivery. This policy therefore ensures that all stakeholders relate with utmost respect and dignity. Strategies outlined in chapter three will ensure that all the parties involved have their rights and obligations and that the County Government will ensure that education and sensitization is done to all stakeholders.

FOREWORD

A report by female staff of the County government at a meeting held at the ACK Salama in 2016 indicates that sexual harassment exists in the County Government of Makueni and that most cases go unreported. The Constitution of Kenya, 2010, the Employment Act, 2007 and the Sexual Offenses Act, 2006 are against any form of harassment in the work place.

The leadership of the Government of Makueni County is committed to zero tolerant to any form of harassment and specifically sexual harassment at work environment and during official assignments outside office. Harassment at work place imparts negatively on performance and commitment of officers to duty. The malpractice is against basic human rights and creates an unlevelled ground for staff appraisal. The county government is therefore devoted to providing an enabling working environment to ensure that the wellbeing and productivity of its staff, interns, attachees and volunteers is maintained.

The County Government with its stakeholders has undertaken to formulate the Sexual Harassment policy, which is aligned with the Constitution of Kenya, 2010, the Sexual Offenses Act of 2006 and the Employment Act, 2007 among other existing legal and policy frameworks to address sexual harassment concerns. The policy provides scope, strategies and implementation procedures applicable to both the Executive and Assembly Arms of the County Government.

The policy offers guidelines for handling sexual harassment cases and empowers the Gender and Disciplinary committees in implementing the policy. Further, the employer has a duty of ensuring compliance and conformity and investigating or referring cases to relevant committees.

When the policy is fully implemented, it will ensure that the County Government of Makueni upholds and promotes a conducive and safe workplace for effective quality service delivery.

All County officers and stakeholders are therefore, advised to implement this policy and align it to their specific mandates and needs.

H.E Prof. Kivutha Kibwana
Governor
Government of Makueni County

ACKNOWLEDGEMENTS

I thank the Governor of Makueni County, H.E. Prof Kivutha Kibwana and the Deputy Governor, Her Excellency Adelina Mwau for their exemplary leadership, support and commitment to ensuring a safe and conducive working environment that is free from any form of harassment. I gratefully acknowledge the members of the County Executive Committee for their role and contribution towards development of this policy.

Special thanks to the NGECC, UN Women, GVRC and Makueni County Public Service Board for technical support towards the preparation of this policy. I wish to acknowledge the tireless commitment of the Taskforce under the leadership of the Director Human Resource for their sacrifice, diligence and teamwork. I also thank all County staff, interns, attachees and volunteers whose participation and contributions during the Governor's and Deputy Governor's forums necessitated the development of this policy.

Special appreciation to all County employees and stakeholders who through the public participation forums gave their useful input that has made Makueni County to be the first county to develop a policy on Sexual harassment which will go a long way in making the working environment conducive for all.

Thank you all for a job well done!

Paul Wasanga
County Secretary

CHAPTER ONE

1.0 Introduction

The Government of Makueni County is committed to the provision of an enabling working environment amongst the employer, staff, interns, attachees, volunteers and the stakeholders. The Government takes cognizance of the fact that harassment undermines the full and free participation of employer, officers and stakeholders, thus impacting negatively on performance through unlawful interactions and promotion of an intimidating, hostile and offensive work environment. This policy therefore affirms the County Government's position of "zero-tolerance to harassment".

The County government officers are expected to contact themselves with courtesy and decorum and should at all times avoid negative behavior that may promote hostility and intimidation amongst themselves, the employer, and stakeholders at and during any formal engagement.

Harassment on any basis including and not be limited to tribe, gender, religion, nationality, color, sexual orientation, disability or age, is unacceptable. The culture inclusiveness of the Makueni County Government staff adds a special challenge in defining what constitutes harassment, since behaviour that might be regarded as acceptable in one culture may give offense in another. Therefore, in their interactions with others, it is important for all staff to act with tolerance, sensitivity, and respect for cultural differences.

1.1 Background

Makueni County is one of the forty-seven counties in Kenya. It is situated in South Eastern part of the Country. It borders Machakos County to the North, Kitui County to the East, Kajiado County to the West and TaitaTaveta County to the South. The county lies between Latitude 1° 35' and 30 00 South and Longitude 37°10' and 38° 30' East and covers an area of 8,008.7 KM².

The County is currently divided into six sub counties (Mbooni, Kilome, Kaiti, Makueni, Kibwezi West and Kibwezi East), thirty wards and sixty sub wards with Makueni Sub County having the largest number of wards at seven while Kilome has the least at three.

According to the current records in the Human Resource Department, the employees statistics are as follows; total number of County staff is 3465 out of whom 2074 are female, % inherited from the defunct local authority, % seconded and devolved from national government, % recruited by the County Public Service Board. The staff audit conducted in 2015 revealed that out of the total number of staff 0.51% of County employees were PLWDs.

This policy will endeavor to create a working environment free from sexual harassment, where all officers and stakeholders are treated with dignity, courtesy and respect. As such, it is the policy of Government of Makueni County that no officer may sexually harass another or any member of the public in line with the County vision of a prosperous value based county with high quality of life.

1.2 Vision

A prosperous value based County with high quality of life.

1.3 Mission

To transform the livelihoods of each household through accountable leadership that creates an enabling environment for inclusive, effective and efficient service delivery.

1.4 Guiding Principles

This policy shall be based on the following guiding principles;

i. Confidentiality

Strict confidentiality shall be maintained by all parties to whom information is availed regarding on-going or previous harassment cases.

ii. Equality & Equity

This policy applies to all employees, irrespective of position held, sex, disability, race, ethnic background, religion, culture, language or birth.

iii. Integrity & Impartiality

For the purposes of implementation for this policy, all parties shall provide truthful and accurate information. In addition, all decisions shall be objective and unbiased.

iv. Freedom of expression

The Government of Makueni County is committed to the principles of free inquiry and free expression. As such, all officers have a right to self-representation and to formal and informal communication on all matters regarding sexual harassment.

v. Accountability

All parties with implementation responsibility under this policy shall remain accountable and uphold all principles of good governance.

1.5 Legal Framework

The policy is anchored in the following legal instruments:-

- i. The International Labour Organization (ILO)
- ii. The Universal Declaration of Human rights
- iii. The Convention on the Elimination of all Forms of Violence against Women (CEDAW)

- iv. The African Charter on Human and Peoples' Rights
- v. The Constitution of Kenya, 2010
- vi. Sexual Offences Act (SOA),2006
- vii. Employment Act, 2007

1.6 Rationale

Section 6(2) of the **Employment Act** stipulates that an employer who employs twenty (20) or more staff shall, after consulting with the employees or their representatives if any, issue a policy statement on sexual harassment.

1.7 Scope of the Policy

This policy applies to all County officers including the permanent and pensionable, contracted, casuals, interns, attachees and volunteers, and also the employer and the stakeholders of Government of Makueni County.

CHAPTER TWO

2.0 Policy Framework and Provisions

This policy shall be implemented by the Government of Makueni County within the existing operational legal and policy frameworks.

2.1 Privacy and Confidentiality

All managers, supervisors, officers, and other persons who are aware of any harassment complaint, or are involved in its resolution, must recognize the seriousness of the situation and respect the sensitivity and confidentiality that must be accorded to the matter.

They must refrain from discussing the complaint amongst themselves or with anyone who does not have a "need to know." Every effort will be made to preserve the dignity and self-respect of the parties to the complaint.

2.2 Harassment on duty and outside station

This policy shall apply during any official assignment within and outside the workstation. No officer on duty outside the work station shall take advantage of the forced proximity to press unwelcome attentions on any officer, intern, attachee or volunteer.

Managers are expected to act promptly, when behavior that might constitute harassment on duty outside the work station comes to their attention.

2.3 Allowable relationship

This policy upholds morality and respect of marriage and family values. The policy discourages extra marital affairs and intimate relationships between state officers and staff; staff and their immediate supervisors and other stakeholders. Intimate affairs between county staff, attachees, interns and volunteers is prohibited regardless of consent.

CHAPTER THREE

3.0 Implementation Strategies

The policy shall adopt the following strategies to ensure effective and efficient implementation:

1. Formation of gender committee;
2. Capacity building of gender and county human resource advisory committee;
3. Sensitization and awareness creation for county officers;
4. Partnerships/collaboration with development partners and like-minded organizations;
5. Involvement of top county leadership and other stakeholders;
6. Resource mobilization;
7. Placement of suggestion boxes at strategic places;
8. Establish a hotline for reporting and;
9. The County Public Service Board shall ensure new employees sign a commitment form as prove and that they have read and understood the policy.

CHAPTER FOUR

4.0 Roles and Responsibilities

The following entities have specific roles and responsibilities to undertake towards the successful implementation of the policy.

4.1 Office of the Governor

4.2 County Public Service Board

4.3 Legal department

4.4. County officers

4.5. Managers and supervisors

4.6 Director Human Resource

4.7 Gender committee

CHAPTER FIVE

5.0 Policy Communication, Monitoring and Review

This policy shall be communicated to the county officers and relevant stakeholders through Works Committees, Social Dialogue Meetings, Human Resource Newsletters and other publications, Staff Notice Board, Makueni County Government website, county radio and any other County communication strategies applicable.

The Gender Committee in collaboration with relevant departments shall produce booklets of this policy and distribute it to the employees. It shall be the obligation of all employees with management responsibilities to bring to the attention of all other employees working under them the contents of this policy. A summary of this policy shall be displayed in appropriate areas.

5.1 Monitoring

The implementation of the policy will be monitored on a continuous basis. Monitoring will be based on performance indicators on areas identified in the policy, whose implementation will be measured to assess performance by all players with responsibilities as outlined by this policy.

5.2 Review

This policy will be reviewed every (3) three years and whenever need arises

References

Convention on the Elimination of all forms of Violence against Women (CEDAW)

County Human Resource Manual

Capacity Building Forum for all County Female Employees, Interns and Attachees: *A report on Deputy Governor's Capacity Building Forum held at ACK Salama, 4th July 2016*

Employment Act, 2007

Government of Makueni County, 2016, *Vision 2025-Our County Our Future*

International Labour Organization (ILO)

Sexual Offences Act, 2006

Universal Declaration of Human Rights