



AFRICAN UNION

HARASSMENT POLICY

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1. Introduction

This policy is issued in line with the Staff Regulations and Rules and the Code of Ethics and Conduct in which no staff member shall be discriminated against and he or she shall be entitled to receive "assistance, protection and security against threats, abuse, harassment, violence, assaults, insults or defamation to which they may be subjected by reason of, or in connection with, the performance of their duties" (Regulation 3.2.).

The purpose of the policy is to articulate the Union's policy against harassment within its working environment.

2. Policy Statement

The Union recognizes the right of all persons to be treated with dignity and respect and is committed to ensuring a workplace free from harassment, abuse, offensive behaviour and discrimination.

To pursue this goal, the Union does not tolerate any action or conduct that may be reasonably viewed as harassment or any retaliation related to such harassment against or by any staff member.

The Union will promote a work culture in which every employee knows and is able to carry out his or her personal responsibilities for maintaining the dignity of work colleagues.

Complaints of harassment are taken seriously by the Union. Any conduct that is found to constitute harassment will be dealt with in a manner consistent with the severity of the misconduct, including appropriate administrative and disciplinary manners.

3. Application

This policy shall apply to all Officials, Staff Members of the Union, and consultants, irrespective of their location, categories and/or duration of their appointments.

The policy extends to situations of harassment which occur at or away from the workplace, including during missions, during or after working hours, if such situations have a negative effect on the working relationships, work effectiveness or job security of a staff member, or threaten or undermine the image or reputation of the Union.

Disagreement on work performance or on other work-related issues is normally not considered harassment and is not dealt with under the provisions of this policy but in the context of performance management.

4. Definitions

Harassment is a form of unacceptable behaviour. It is unwelcome verbal or physical behaviour that unreasonably interferes with work or creates an intimidating, hostile or offensive work environment. The effect of the behaviour on others is paramount and not the intention. If the action is reasonably perceived as offensive or intimidating by another, whether intended or not, it should be stopped.

Sexual harassment includes any unwelcome sexual advance, request for a sexual favour or unwanted verbal, non-verbal or physical conduct of a sexual nature that unreasonably interferes with work, alters or is made a condition of employment, or creates an intimidating, hostile, humiliating, or offensive work environment. It is unwelcome, unreciprocated and imposed and may consist of a single incident or series of incidents. Mutually acceptable behaviour is not sexual harassment, regardless of the employment relationship.

Abuse of authority is an unacceptable behaviour that occurs when an individual improperly uses power and authority inherent in his or her position to harass another person, undermine the person's performance in that job, influence others' perceptions of a person, threaten the person or in any way, maliciously interfere with or influence a person's career or employment conditions (including hiring, assignment, contract renewal, performance evaluation or promotion).

Bullying usually refers to an intentional, aggressive act or behaviour that causes harm to others and may involve verbal harassment, verbal or non-verbal threats, physical assault, stalking or other methods of coercion such as manipulation, blackmail or extortion. It is usually based on the bully having some form of greater power or authority than the other person.

Mobbing usually refers to situations in which a target is selected and bullied (mobbed) by a group of people rather than by one individual.

Discrimination is an unjust distinction in the treatment based on one or more characteristics that include, but are not limited to, ethnic, social or political backgrounds, colour, nationality, religion, sex, age, disability, marital status, family size or sexual orientation.

Retaliation is any detrimental action, direct or indirect, recommended, taken or threatened against an individual to cause harm for expressing his or her views or concerns about the workplace, making a complaint or supporting someone else in doing so, and/or cooperating in good faith on matters concerning unacceptable behaviour.

Complainant is the aggrieved person, who feels offended by the actions of another person or who alleges that he or she has been harassed, discriminated or retaliated against.

Alleged offender or alleged harasser is the person identified as the harasser by the complainant.

Workplace includes any Union facilities, or any place where staff members are present in the course of their official duties, or any place of events outside but directly linked to working with the Union.

Sexual exploitation is any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes, including but not limited to, profiting monetarily, socially or politically from sexual exploitation of another.

Sexual abuse is an actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

The "African Union" or "Union" refers to the African Union.

5. Characteristics

Harassment can present itself in many forms and may include:

- Comments (verbal or written), open or implied, gestures or physical actions
- A single incident or a repeated or continuous pattern of behaviour
- Cause personal humiliation, embarrassment, and belittle and demean
- Be directed at a person or a number of people
- Be initiated by a colleague or a supervisor
- Takes place at work or during social functions related to the workplace
- Be linked to bias when a group of people is singled out for negative attention

Behaviours that may constitute harassment include, but are not limited to:

- Regular shouting and aggressive behaviour in public or private by a supervisor or a colleague
- Severe or repeated insults relating to a person's personal or professional competence
- Threatening or insulting comments, verbal or in writing, including those made through all types of electronic media
- Innuendo or other suggestive, offensive or derogatory comments about a person's beliefs, personal style, status, culture or racial origin (including the use of e-mail and social media)
- Intentional use of power of personal authority to not allow the right of complaint, to raise concerns about potential breaches of standards of conduct or probity

Sexual harassment can present itself in many forms and may include:

- Objectionable verbal or non-verbal conduct of a sexual nature
- Single incident or a series of incidents
- May involve interactions between individuals of the same sex as well as individuals of the opposite sex
- Detrimentally affects the work environment by causing offense, humiliation or intimidation
- Takes place at or away from the workplace including during missions, during or after working hours

Behaviours that may constitute sexual harassment include but are not limited to:

- Unwanted propositions or pressure for sexual activity
- Unwanted requests for sexual favours linked to career prospects
- Continued suggestions for unwanted social activity outside the workplace when it has been made clear that such suggestions are unwelcome
- Offensive flirtations, suggestive remarks, innuendos, lewd comments
- Any act or threat of reprisal following a rejection of sexual solicitations or advances, including such acts as spreading rumours or false allegations about a person's personal, professional or sex life.
- Unwanted, uninvited or inappropriate physical contact, visual displays of pornographic or degrading sexual images, objects or written materials
- Unwanted leering, whistling, blocking a person's path, giving unwanted personal gifts or making unwanted sexually suggestive gestures

Bullying and mobbing can be overt and obvious or covert. Examples include but are not limited to:

- Open aggression, including threats, shouting, abusive language
- Constantly humiliating, ridiculing, insulting or criticizing someone or a group, often in public
- Ignoring or excluding someone from office activities
- Manipulation of a person's personal or professional reputation by rumour, gossip or ridicule
- Persistent negative attacks on personal or professional performance without reason or legitimate authority
- Excessive supervision or over-checking of a person's work with malicious intent
- Unreasonable and/or unfounded refusal of request for leave and/or training

6. Responsibilities of the Union

To achieve its mission and uphold the values, the Union shall provide for a productive and creative work environment, free from unacceptable behaviour of any kind where mutual respect is fostered. The Union shall protect fundamental

human rights, dignity and worth, and equal rights of all its staff members as set out in the Staff Regulations and Rules.

Preventive Measures

The Union shall ensure that all staff members are informed of the required standards of conduct and of this policy and shall also ensure that all staff members are aware of their responsibilities and rights, and how to obtain support if needed.

New employees will be briefed on this policy during orientation sessions. Training and information shall be provided to staff members, including managers and supervisors, on issues related to unacceptable behaviour, including harassment and measures for its prevention, to increase awareness on these issues and promote a harassment free work environment.

Managers and supervisors shall support this commitment. They shall be responsible to set a positive example in their daily actions and communications with colleagues; they must clearly communicate that harassment behaviour shall not be tolerated. They shall take all necessary measures to create a work environment free of harassment and other unacceptable behaviour and where everyone feels free to express concerns. They shall make themselves available to those who wish to raise concerns in confidence.

The African Union Commission, organs of the Union, agencies and institutions, shall handle complaints promptly, impartially and in a sensitive manner, in accordance with the relevant procedures. Confidentiality of staff members shall be reasonably protected. The safety and wellbeing of the relevant parties shall be maintained and the interests and reputation of the Union protected.

Where necessary, the Union shall take disciplinary or other corrective measures to deal with breaches of this policy.

7. Responsibility of Staff Members

All staff members are responsible for collaborating to create a productive and creative work environment where colleagues are treated respectfully and with dignity, and which is free of all forms of unacceptable behaviour, including harassment.

They shall be mindful of their own personal behaviour at all times. They shall understand the standards of conduct required and the kinds of behaviour that are potentially unacceptable and/or harassing. They shall attend any relevant training.

Staff members are also responsible for taking assertive action should they feel they are being subjected to unacceptable behaviour. Staff members that are witness to a situation where unacceptable behaviour occurs must act to stop this behaviour by: talking to the person being offended and encouraging that person

to seek advice or report the behaviour; tell the offender that the behaviour is inappropriate; or seek advice from a supervisor.

8. Confidentiality

Staff members aware of a complaint or involved in its resolution must recognize the seriousness of the situation and adhere to strict standards of confidentiality. They shall refrain from discussing the complaint or its resolution with other colleagues, and should only disclose information on a strict "need to know" basis.

The complainant and alleged offender will be assured of confidentiality and professional standards of conduct while a complaint is being investigated.

9. Resolution procedures

9.1. Resource Persons

Staff members may seek advice or report incidents of unacceptable behaviour to any of the following persons:

- a. An Ethics Officer is best qualified and placed to give advice on cases of unacceptable behaviour that is defined as chronic or of a sexual nature. S/he would attempt to resolve the issue informally, and/or start the formal resolution process. With an independent and impartial Ethics Officer on board, matters of concern can be raised and addressed without fear of retaliation and support and advice on harassment issues can be provided.
- b. HR Officers can provide support and advice on any form of unacceptable behaviour, what are the appropriate procedures and steps required to informally and/or formally raise a complaint.
- c. Supervisors/managers may provide support or advice regarding unacceptable behaviour. They have an obligation to report to the Ethics Officer any form of unacceptable behaviour they have witnessed or that has been reported to them.
- d. Counselling Service The Medical Centre has a Clinical Psychologist on board, who is available for support.
- e. Members of the Staff Association Executive Committee are available for support and advice regarding unacceptable behaviour or other related issues.

Resource persons shall at all times maintain confidentiality of reported incidents of unacceptable behaviour and shall commit to maintaining such confidentiality.

9.2. Overview of the resolution process

Complainants have the right to choose either informal or formal channels for resolving a dispute. Every effort should be made to resolve problems early and informally through open communications and in a cooperative manner. The complainant may also proceed directly to formal resolution procedures.

Anyone experiencing unacceptable behaviour should keep a note of the details, dates, times, circumstances and witnesses of incidents, including a note of any ways in which the incidents have affected them personally or their ability to work effectively.

In his or her initial consultation with any of the resource persons listed above, the complainant should communicate clearly the outcome expected. Resource persons will not act unless requested by the complainant.

The above-mentioned resource persons shall immediately consult with the Ethics Officer if the alleged unacceptable behaviour is chronic or of a sexual nature.

9.3. Representation

With respect to investigations carried out by the Ethics Officer during the resolution process, the complainant and alleged offender may be represented or assisted by any person. This person must not directly be involved as a potential witness in the matter under review or being investigated. Staff of the Legal Counsel shall not represent or otherwise assist complainants or alleged offenders in connection with the complaint.

9.4. Informal Procedures

The informal process provides a means to solve problems before parties become adversarial and a formal process begins. It is hoped that through open and honest discussion both parties may arrive to an understanding and the unacceptable behaviour will cease.

The complainant can deal directly with the person who engaged in the objectionable behaviour by politely, but firmly, speaking or writing to explain that the conduct is unwelcome, unwanted, offensive and interfering with work, as well as in breach of the provisions in the Staff Rules and the Code of Ethics and Conduct, and that it should stop. A record of the discussion and copies of any correspondence should be kept by the complainant in the event that follow-up action becomes necessary.

Alternatively, the complainant may seek advice and help from any other staff member and/or resource persons and ask this person to accompany them to speak to the alleged offender discreetly and confidentially with a view to achieving an informal resolution of the problem.

The complainant can raise the issue with the Ethics Officer. The Ethics Officer will first speak with the complainant and the alleged offender separately and take notes of the meetings, in an attempt to facilitate an informal resolution of the alleged grievance. If both parties agree, the Ethics Officer will arrange for a face-to-face meeting. If it is not advisable that the parties meet, following receipt of the complaint, the Ethics Officer, with written consent of the complainant, will meet the alleged offender informally to discuss the allegation. The complainant will be advised of any action taken.

9.5. Formal Procedures

A formal resolution process may be initiated if the informal procedure is not appropriate, has proven unsuccessful, or the complainant and/or alleged offender so request.

9.5.1. Submission of a formal complaint

Complainants shall submit their written, formal complaint to the Ethics Office at the earliest possible opportunity, both to protect them and to maximize the chances of related information and evidence being readily available.

The complaint should include, but is not limited to:

- Name of the alleged offender
- Type and frequency of the specific offensive acts
- Place, time and date of the incident(s) where reasonably possible
- Relationship between the complainant and the alleged offender
- Any action or follow-up action taken
- Names of any relevant witnesses to the offence or people to whom the offence was mentioned

Receipt of the complaint will be acknowledged within 10 working days and registered.

The complainant must be aware that, in accordance with the principles of due process, his or her complaint or information from the complaint will be shared with the alleged offender who will be informed of the allegations levelled against him or her at the appropriate stage when a formal complaint has been made.

A formal complaint must be submitted within three months from either the date of the incident of the alleged offence, or the most recent alleged incident, if the complaint is about a persistent pattern of inappropriate behaviour. In exceptional circumstances, the time limits for submitting a complaint may be extended.

9.5.2. Initial Review

An initial review will be carried out to verify whether the complaint is complete and whether or not the allegation merits further inquiry as a full investigation. The Ethics Officer will conduct the initial review, except where the Chairperson or competent authority of any other organ or his/her duly authorized representatives designates another person/group to conduct the review.

At any time during the review the Ethics Officer has the authority to meet or request any necessary relevant information from any party or witness concerning the allegation, as well as to meet the complainant to interview and review the information provided.

9.5.3. Complaints that do not warrant investigation

Further to the initial review, it will be determined whether the behaviour referred to in the complaint constitutes prima facie unacceptable behaviour in accordance with this policy and warrants an investigation.

Where behaviours do not qualify for further investigation, the Ethics Officer will attempt to facilitate a discussion between the complainant and alleged offender using the informal resolution process described and close the complaint.

9.5.4. Complaints that warrant investigation

When at the end of the initial review it is determined that there is sufficient basis to merit further proceedings, the Ethics Officer will forward the case to the Grievances Panel or the Disciplinary Board (as appropriate) to undertake a full investigation to determine the substance and circumstance of the matter.

The Ethics Officer shall notify in writing the complainant and the alleged offender that the matter has been referred to the investigation team (contact person should be identified) for investigation and shall transmit a copy of the complaint to the alleged offender.

9.6. Interim Preventive Measures

The Union will ensure that the complainant is safe. When necessary and in consultation with the Ethics Officer, or the Chair of the investigative Board/Panel may recommend to the Chairperson some preventive measures, pending the outcome of the investigation¹.

Interim preventative measures will be notified in writing to the concerned person(s). These measures are not corrective or disciplinary, are not an assumption of guilt, and will not prejudice the rights of the complainant nor the alleged offender. Such measures do not constitute a decision.

10. Decision and Disciplinary Phase

Should the finding of the investigation report indicate that unacceptable behaviour has not occurred, the case will be closed and the parties notified by the chair of the investigative panel.

Except in cases of express waiver by the staff member concerned the report indicating that unacceptable behaviour has occurred will be referred to the

¹ Examples of such measures include: physically or hierarchically separating the alleged offender and complainant; temporarily removing the complainant or alleged offender from the premises; or restricting access, including files, electronic databases and e-mail facilities, among others.

Disciplinary Board, in accordance provisions set in the Staff Regulations and Rules and the procedures that govern the Disciplinary Board.

11. Follow-up to Complaints

Once a complaint is resolved, managers and supervisors will monitor the situation closely to ensure that all parties to the complaint make the transition back to their normal duties as smoothly and quickly as possible. Managers and supervisors will also monitor their work environment closely to ensure that there is no potential for a repetition of improper behaviour.

12. False Allegations and Retaliation

Malicious complaints will be considered misconduct. If in the process of a complaint it is determined that such complaint is malicious, the complainant may be subject to administrative or disciplinary action.

The complainant has the right to be protected from retaliation for having made a complaint in good faith. Any retaliation or threat of retaliation to any complainant or those providing evidence or testimony or assisting in the investigation shall be subject to disciplinary measures as foreseen in the Code of Ethics and Conduct and the Staff Regulations and Rules.

13. Decision by the Chairperson

In accordance with the Staff Regulation 12, the Chairperson or the competent authority of any other organ exercises disciplinary control over staff members and may, upon the advice of the Disciplinary Board, impose disciplinary measures for misconduct and dismiss a staff member for gross misconduct.

14. Appeal

In accordance with Staff Regulation 14, concerned staff members may file appeals against a final decision taken.

15. Records

As mentioned above, all parties, including witnesses, should seek to maintain detailed written records (including hard copies of e-mails) of all incidents and any steps taken to resolve the matter. All records of a formal complaint, including any supporting documents generated during the formal complaint review and any subsequent investigation files will be retained separately and confidentially by the Ethics Officer for the purpose of business needs.

No records of the resolution, informal or otherwise, will be attached to individual HR files. The resource person will determine what documents or other records

created in the course of informal procedures or resolution will be destroyed at the end of the proceedings, or retained by the Ethics Office

A summary record of the complaint and any action taken will normally be placed in the HR file of the alleged offender only if disciplinary action has been taken against that individual. The record will be retained, in accordance with retaining procedures for personal data and records.

16. Annual Report

The Ethics Officer has the overall responsibility for monitoring and reporting progress to the Chairperson on the effectiveness of prevention and management of unacceptable behaviour in the Union. A confidential annual report will be provided to the Chairperson on the nature and incidence of complaints, the outcome of the formal work and recommendations on prevention of unacceptable behaviour. The analysis should not identify individuals or breach confidentiality.

17. Entry into Force

This policy will take effect on approval by the Chairperson of the Commission.

Signed this Day of *24 January 2017*

Nkuma

Nkosazana Dlamini Zuma
Chairperson, African Union Commission