

# **PRETORIA SOCIETY OF ADVOCATES** **SEXUAL HARASSMENT POLICY**

## **1. PREAMBLE**

### **1.1 The Pretoria Society of Advocates recognises that:**

1.1.1 It is a fundamental right of all individuals to be treated with dignity, respect and no form of sexual harassment shall be permitted or condoned.

1.1.2 All employees, members of the Society and any person accessing the Society's premises including contract workers have the right to complain about incidents of sexual harassment should such occur.

1.1.3 The Society's premises include all premises where business of the Society is conducted (including all Court buildings) and where Society related activities are performed or any other site, whether social, business or other function, where conduct or comments may reflect on the Society or relationships within the Society.

### **1.2 The Society further undertakes that:**

1.2.1 All reports or complaints of sexual harassment will be treated seriously and sensitively and that investigations will be conducted thoroughly and confidentially.

- 1.2.2 There will be no victimization, in any form, of a complainant, an alleged perpetrator and/or any witness who was involved in any past or future investigation of complaints about sexual harassment.
- 1.2.3 Appropriate disciplinary action will be taken against any member of the Society found guilty of having committed any act of sexual harassment against a co-member, an associate, a business visitor or any person in circumstances that involve the Society.
- 1.2.4 This Policy shall apply to all members and employees of the Society regardless of their status within the Society.
- 1.2.5 To protect the interests of the complainant, the person complained against and any others who may report or be witnesses to incidents of harassment, confidentiality will be maintained throughout any investigatory process to the extent that this is practical and appropriate under the circumstances. All records of complaints, including notes of meetings, interviews, results of investigations and other relevant material will be kept confidential by the Society except where disclosure is required for disciplinary or remedial processes.
- 1.2.6 All parties to any of the above processes who makes use of a typist, must submit a certificate signed by the typist, undertaking and confirming confidentiality.

## **2. POLICY**

- 2.1 Disciplinary action will be taken against any member or employee alleged to be guilty of sexually harassing a co-member, employee, member of the public, or any person having dealings with the Society.
- 2.2 In cases of serious sexual harassment where a member on medical advice requires trauma counselling, the Society will consider excusing such a member from the obligation to pay bar fees for the duration of the counselling.
- 2.3 The Society will endeavour to protect members and employees as far as possible from sexual harassment by any non-members or non-employees in the working environment.
- 2.4 Complaints in respect of sexual harassment lodged by parties other than members or employees of the Society will be investigated and disciplinary action will be taken if the perpetrator is a member or employee of the Society and the harassment has taken place within the Society's premises.

## **3. DEFINITION**

- 3.1 Sexual harassment is unwanted conduct of a sexual nature or other conduct based on sex which affects the dignity of people at the Society and which has a negative impact on the person experiencing it or is prejudicial to her or his interests.
- 3.2 Different forms of Sexual Harassment:

- 3.2.1 Verbal forms which include unwelcome inquiries about someone's sex life; telephone calls with sexual overtones, offensive and persistent rude or sexist jokes; innuendo; unwelcome requests for dates or graphic comments about an individual's body.
- 3.2.2 Non-verbal forms include inappropriate gestures or touching; looking at someone in a derogatory or suggestive manner; the public display of sexually suggestive objects or pictures; objectionable communication of indecent material, or persistent and unwelcome suggestive winking and flirting.
- 3.2.3 Visual forms include displaying of pornographic pictures, cartoon, movies or slides.
- 3.2.4 Physical forms include unwelcome patting, pinching, fondling, kissing and strip-searching, or any form of intimacy, which would make the individual feel threatened or uncomfortable, including criminal acts such as molestation and rape, and direct sexual propositioning in violation of an individual's right to decline.
- 3.2.5 It includes all forms of acts referred to in the Criminal Law (Sexual Offences and Related matters) Amendment Act, No. 32 of 2007 that constitutes an offence in terms of or under the Act.

#### **4. GUIDELINES IN DEALING WITH A COMPLAINT**

4.1 Lodging a Complaint

- 4.1.1 The complainant may in certain instances prefer to deal with the issue informally, directly with the perpetrator.
- 4.1.2 A person experiencing harassment or unwelcome attention is, therefore, encouraged to make it clear to the perpetrator that the particular behaviour is unwelcome, but however silence by the victim will not be viewed as consent or justification for the continuation of harassment.
- 4.1.3 If the complainant cannot resolve the issue directly with the perpetrator or is unwilling or unable to confront the perpetrator, the complainant should submit a written statement under oath (or confirmation) to the Bar Council Secretary outlining and specifying the actions or incidents complained about, with facts to substantiate the complaints.
- 4.1.4 On receipt of the written complaint, the Secretary will refer the complaint to the Personnel Committee in the event of an employer-employee relationship between the perpetrator and the complainant and in other cases to the Professional and Ethics Committee.
- 4.1.5 Counselling may be provided to both parties involved as a corrective measure in any Disciplinary or Grievance proceedings.

- 4.1.6 A non-employee who subjects a member or employee of the Society to harassment in the workplace will be informed of this policy.
- 4.1.7 Other appropriate action may be taken, for example informing the harasser's employer about the problem behaviour, or refusing the perpetrator access to the Society's premises.
- 4.1.8 On application to a Disciplinary Committee, a complainant may obtain or be represented by his/her own legal representative who may be present, but does not take part in any of the proceedings.

## **5. CRIMINAL & CIVIL CHARGES**

A victim of sexual harassment 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.