



SEXUAL HARASSMENT POLICY AND REPORTING PROCEDURE

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1. PURPOSE

The purpose of this policy is to protect all employees and prospective employees of Harmony Gold Mining Company (“Harmony”) as well as those having dealings with Harmony Gold Mining Company from sexual harassment in the workplace, and to provide guidelines for managing cases that arise out of allegations of sexual related misconduct.

2. INTERPRETATION, DEFINITIONS AND ABBREVIATIONS

- 2.1 **“Disciplinary action”** means a process for dealing with job-related behaviour that does not meet expected and communicated performance standards.
- 2.2 **“EEA”** means the Employment Equity Act, No.55 of 1998.
- 2.3 **“Employee”** means a person permanently employed by Harmony.
- 2.4 **“Harmony”** refers to Harmony Mining Company Limited including all South African operations.
- 2.5 **“Job applicant”** refers to a person who applied for a position with Harmony and is protected by the EEA.
- 2.6 **“LRA”** means the Labour Relations Act 66 of 1995.
- 2.7 **“Records”** includes, without limitation, any technical, commercial, financial information, know-how, trade secrets, processes, machinery, designs, drawings, technical specifications, and data in whatever form, disclosed to or assessed by the Employee during the course of its employment, which includes private information as defined in the Protection of Personal Information Act, No 4 of 2013.
- 2.8 **“The Constitution of South Africa”** is the supreme law of the Republic of South Africa. It provides the legal foundation for the existence of the republic, sets out the rights and duties of its citizens, and defines the structure of the government.

3. INTRODUCTION

The Bill of Rights as contained in Chapter 2 of the Constitution is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.

Therefore all Harmony employees, job applicants and those having dealings with the company have the right to be treated with dignity, and free from sexual harassment. Sexual harassment is not and will not be condoned in the workplace.

In this regard Harmony commits to the following:

- 3.1 To take all reasonable measures to create and maintain a working environment in which the dignity, privacy, respect and the right to equal treatment, of all employees and relevant non-employees is upheld.
- 3.2 To take all reasonable measures to create structures and systems where an alleged victim/s can exercise his/her right to report any incidents of sexual harassment
- 3.3 Ensures the following regarding alleged victim/s of sexual harassment:
 - 3.3.1 Protection from reprisals as a result of lodging an incident or grievance related to sexual harassment, and
 - 3.3.2 Victim/s do not feel that their grievances are being ignored or trivialised.
- 3.4 To encourage all employees who have been or who are being subjected to sexual harassment to bring such complaint to the attention of the sexual harassment officer by way of the procedures set out in this policy
- 3.5 To deal with all allegations of sexual harassment in a serious, expedient, sensitive and confidential manner.
- 3.6 To strive to protect the parties involved in an alleged sexual harassment incident against victimisation, retaliation for lodging grievances and from false accusations.

Note: It is a disciplinary offence to lay an unfounded or unjustified complaint/s against a fellow employee with the intent to cause malicious harm to them or their reputation. This is viewed in a serious light and disciplinary action may result in dismissal.

4. POLICY

4.1 Relevant laws, rules and regulations

The following have a direct influence on this policy:

4.1.1 Labour Relations Act, No 66, 1995

4.1.2 Employment Equity Act, 1998

4.1.3 The Constitution of South Africa

4.1.4 Relevant policies, procedures and collective agreements that regulate employees' interactions with each other should be taken cognisance of and be guided by the provisions of this policy.

4.2 Application of the policy

4.2.1 Although this code is intended to guide Harmony and its employees, the perpetrators and victims of sexual harassment may include:

- Shareholders/ Owners
- Employers
- Managers
- Supervisors
- Employees
- Job applicants
- Suppliers
- Contractors
- Clients, and
- any other individual(s) having dealings with Harmony.

4.2.2 Nothing in 4.2.1 above confers the authority on Harmony to take disciplinary action in respect of non-employees..

4.2.3 A non-employee who is a victim of sexual harassment may lodge a grievance with Harmony if the offence has taken place within the Harmony workplace or in the course of the alleged perpetrator's employment.

4.2.4 Moreover, in cases involving non-employees, the Company may also pursue whatever is deemed to be an appropriate action to remedy the situation

4.3 **Definition of sexual harassment**

4.3.1 Sexual harassment is the unwanted conduct of a sexual nature that violates the rights of an employee and constitutes a barrier to equity in the workplace. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutual.

4.3.2 Sexual attention becomes sexual harassment if:

4.3.2.1 The behaviour is persistent, although a single incident of harassment can constitute sexual harassment; and/or

4.3.2.2 The recipient has made it clear that the behaviour is considered offensive; and/or

4.3.2.3 The perpetrator should have known that the behaviour is regarded as unacceptable.

4.3.3 Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, but is not limited to the examples listed as follow:

4.3.3.1 Physical conduct of a sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes the conducting of strip searches by or in the presence of the opposite sex and attempted or actual kissing or fondling.

4.3.3.2 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, unwelcome jokes that cause awkwardness or

embarrassment, comments about a person's sexual habits, verbal threats or abuse and sending sexually explicit text and or material by electronic means or otherwise.

- 4.3.4 Other forms of verbal sexual harassment include but not limited to the showing of pornographic materials, writing letters, emails or postings on social media platforms making telephone calls or giving unsolicited gifts.
- 4.3.5 Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit/undesirable pictures and objects in the workplace, persistent and unwelcome flirting or sending sexually explicit pictures or objects by electronic means or otherwise.
- 4.3.6 Visual sexual harassment is the public display of pornographic or other offensive, derogatory ad/or sexually explicit pictures, photographs, slides, cartoon drawings, symbols, movies and other material, including indecent exposure.
- 4.3.7 Psychological sexual behaviour constitutes repeated unwanted social invitations for dinner, drinks or movies, sexual favours and requiring/requesting a subordinate to wear sexy revealing or suggestive clothing.
- 4.3.8 Quid pro quo ("something for something") 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 any other employment benefit of an employee or job applicant, in exchange for sexual favours or suggested or implied sexual favours.
- 4.3.9 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 ratings or salary increases or any other employment benefit.
- 4.3.10 Behaviour that does not normally constitute sexual harassment could include occasional compliments, flirtatious banter when it is mutually accepted, forms of greetings that are deemed acceptable according to the company culture and behaviour and occasional jokes or other

behaviours where the intent is not meant to be offensive, except where the perpetrator should have known that the behaviour is regarded as unacceptable.

4.4 Appointment and duties of designated sexual harassment officers

Sexual harassment is a sensitive issue and the victim may feel unable to approach the perpetrator, lodge a formal grievance or turn to colleagues for support. Harmony will designate a person outside of line management in each region to whom alleged victims may approach for confidential advice or for assistance, or to report the incident either formally or informally. The sexual harassment officers are the custodians of this reporting process.

The reporting of an alleged sexual harassment incident must be brought to the sexual harassment officers' attention immediately so that the necessary steps to eliminate the harassment can be taken.

'Immediately' is defined as: *"As soon as is reasonably possible in the circumstances and without undue delay taking into account all the circumstances"*

The list of trained sexual harassment officers appointed by Harmony can be found in Annexure B. Sexual harassment incidents are reported to these officers. They are responsible to deal/clarify any questions regarding the sexual harassment policy which victims may have.

4.4.1 Sexual Harassment Officers,

- 4.4.1.1 May include persons employed by the company to perform *inter alia* such a function, a co-employee, or in some instances an outside professional may prove more appropriate.
- 4.4.1.2 Must have the appropriate skills and experience or be properly trained and given adequate resources.
- 4.4.1.3 Will be required to have counselling and relevant labour relations skills and be able to provide support and advice on a confidential basis.

4.4.1.4 Will be required to keep record of all cases that he/she deals with, whether they are informal or formal.

4.4.1.5 Will be required to sign a confidentiality agreement on appointment.

4.5 Reporting procedures

Harmony has developed clear procedures, detailed below, to deal with sexual harassment. These procedures ensure the resolution of problems in a sensitive, efficient and effective way. Employees will be advised that there are 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 a formal procedure can be embarked upon. The employee will be under no duress to accept one or the other option.

4.5.1 Informal procedure

4.5.1.1 It may be sufficient for the employee concerned to have an opportunity where she/he can explain to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends her/him or makes her/him uncomfortable, and that it interferes with her/his work.

4.5.1.1 This can be done one-on-one or in the presence of the sexual harassment officer who in this instance could act as a mediator. It is advisable that in these instances an independent third party is present.

4.5.1.2 The employee concerned should complete a sexual harassment form (see Annexure A) with the assistance of the sexual harassment officer if it is deemed necessary. This form will be kept by the sexual harassment officer who will keep a record of all cases that he/she deals with.

4.5.1.3 If the informal approach does not provide a satisfactory outcome, or 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.

4.5.2 Formal procedure

In line with the Department of Labour's code of good conduct and the guidelines as set out by the Commission on Gender Equality:

A formal complaint should be lodged with the sexual harassment officer.

4.5.2.1 The sexual harassment form should be completed by the employee concerned and handed to the sexual harassment officer as soon as possible after the incident.

4.5.2.2 Depending upon the nature and complexity of the complaint, the sexual harassment officer may recommend an investigation into the incidence/s prior to the formal complaint being communicated to the alleged perpetrator.

4.5.2.3 As soon as possible thereafter, a disciplinary hearing is to be convened. Generally this should be within 14 days after the initial complaint or after the conclusion of the investigation as the case may be. Should the disciplinary hearing fail to resolve the formal complaint, the complainant may follow the dispute resolution mechanisms as provided in terms of 4.6.4 below.

4.6 Investigation and disciplinary action procedures

4.6.1 Care should be taken by the sexual harassment officers that the employee concerned / complainant is not disadvantaged during the period of investigation, and that the position of the other party or parties is not prejudiced if the complaint is found to be unwarranted.

4.6.2 Disciplinary Measures

Serious incidents of sexual harassment or continued / persistent harassment are dismissible offences, however all incidents will be assessed on their individual merits. Employees are also cautioned that it would be a disciplinary offence to victimise or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

4.6.3 Criminal and civil charges

A victim of sexual assault has the right to press separate criminal and/or civil charges against an alleged perpetrator, in this regard the legal rights of such employee are in no way limited by this policy.

4.6.4 Dispute resolution

Should a complaint of alleged sexual harassment not be satisfactorily resolved by Harmony's internal procedures set out above, either party may, within 30 days of the dispute having arisen, refer the matter to the CCMA for conciliation in accordance with the provisions of section 135 of the Labour Relations Act. 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).

4.6.5 Counselling

All employees who have been sexually harassed should be given the opportunity and necessary time to go for counselling. This is to be decided on a case-by-case basis in consultation with the employee concerned and the sexual harassment officer.

4.6.6 Monitoring

The sexual harassment officer, and where necessary the chairperson of the disciplinary enquiry will monitor the relationship between the complainant and the perpetrator by way of an interview/s to ensure that the outcome has been satisfactory and that there have been no repeat incidents and no victimization. This is especially important where an informal procedure has been followed to deal with a complaint. Efforts must be made to ensure that such a case does not escalate into a formal complaint.

4.7 Confidentiality

4.7.1 Harmony and its 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.

4.7.2 In cases of sexual harassment, management and the parties concerned must endeavour to ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the

complainant, representative, alleged perpetrator, witnesses and interpreter if required, must be present in the disciplinary enquiry.

- 4.7.3 Information as may be reasonably necessary to enable either party or their representatives to prepare for any proceedings in terms of this policy must be disclosed.
- 4.7.4 The relevant provisions of section 16 of The Labour Relations Act will apply to the disclosure of information in terms of this policy.

4.8 Additional sick leave

Where an employee's existing sick leave entitlement has been exhausted, Harmony will give due consideration, on a case-by-case basis, to the granting of additional sick leave in cases of serious sexual harassment where the employee, on medical advice requires trauma counselling or extensive medical treatment.

4.9 Information and education regarding this policy

- 4.9.1 Harmony is committed to communicate this policy and to include the following on engagement and or during induction and wherever else it is appropriate and reasonably practicable for Harmony to do so, in order to try and achieve the environment described in 2.1:
 - 4.9.1.1 Harmony management and its employees are required to refrain from committing any acts of sexual harassment.
 - 4.9.1.2 Harmony management and its employees have a role to play in contributing towards creating and maintaining a working environment in which sexual harassment is unacceptable and not tolerated. They should ensure that their standards of conduct do not cause offence and they should discourage unacceptable behaviour on the part of others.
 - 4.9.1.3 Harmony management should attempt to ensure that persons such as contractors, suppliers, job applicants and those who have dealings with the business are not subjected to sexual harassment by any Harmony employee.
 - 4.9.1.4 Harmony management are required to take appropriate action in accordance with this code, Section 60 of the EEA

and section 6 of the LRA, when instances of sexual harassment that occur within the workplace are brought to their attention.

- 4.9.1.5 Harmony will assist the trade unions with the inclusion of the issue of sexual harassment in their education and training programmes of shop stewards and employee representatives.

5. APPENDICES/REFERENCES

5.1 Appendices:

- 5.1.1 Appendix A Sexual Harassment Form
- 5.1.1 Appendix B Sexual Harassment Officers

5.2 References:

- 5.2.1 Harmony Code of Ethics
- 5.2.2 EEA
- 5.2.3 EE Policy
- 5.2.4 LRA
- 5.2.6 The Constitution of South Africa

6. RECORD SECURITY AND PREVENTION OF UNAUTHORISED ACCESS TO RECORDS

All relevant documents must be retained as per Harmony's retention of documents policy.

7. COMPLIANCE

- 7.1. This policy is drafted in accordance with the relevant legislation and regulatory requirements.
- 7.2 Non-compliance with this policy may result in disciplinary action.
- 7.3 This policy is only applicable to Harmony's South African operations.
- 7.4 This policy remains in full force and effect until replaced by a new, revised policy, irrespective of the review date of the policy.



8. ADOPTION OF POLICY

- 8.1 The designated person will inform all relevant policy holders by means of a note that the policy has been approved and of the date of implementation.
- 8.2 The policy holder will communicate the adoption of the policy to all relevant staff within the Company.

Approved by the Executive Committee – South Africa Operations on
.....September 2017

EXECUTIVE: HUMAN RESOURCES

CHIEF OPERATING OFFICER

CHIEF EXECUTIVE OFFICER



Annexure A

SEXUAL HARASSMENT FORM

Name	
Employee Number	
Shaft	
Position	

Date of incident	
Alleged perpetrator	
Alleged perpetrator's position	
Description of incident	

Procedure 1 (please tick appropriate block: Formal , Informal)

Date (no longer than 7 days from date of incident)	
Sexual Harassment Officer attending	
Outcome (no longer than 14 days from date of incident)	

Procedure 2 (please tick appropriate block: Formal , CCMA)

Date (no longer than 14 days from date of incident)	
Sexual Harassment Officer attending	
Outcome (no longer than 21 days from date of incident)	

Procedure 3 (please tick appropriate block: CCMA , Other)

Date (no longer than 30 days from date of incident)	
Sexual Harassment Officer attending	
Outcome	



Annexure B

SEXUAL HARASSMENT OFFICERS

Randfontein Office Park, Doornkop, Kusasaletu; Welma de la Rouviere
Sylvia Seleke
Joseph Mabuza

Free State Region: Gaby Fischer
Joyce Mosiako
Gaby Fischer
Lyonel Lloyd Evans