

WORKPLACE SEXUAL AND GENDER BASED VIOLENCE POLICY

JANUARY 2021

AMMENDMENT SHEET

Issue/Revision No	Subject of Amendment	Reviewed By	Authorized By	Date

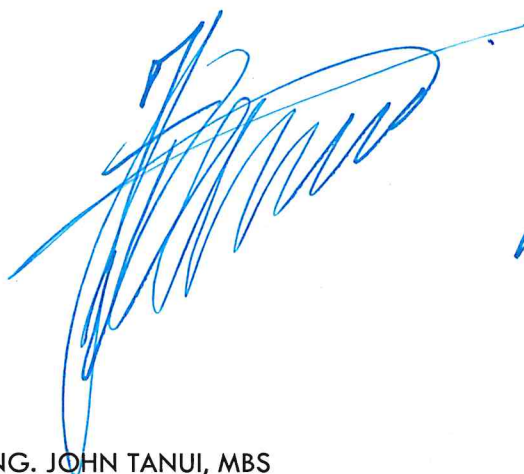


FOREWORD

KOTDA is a State Corporation established on 28th March 2012, under Legal Notice No.23 under State Corporations Act (Cap. 446). The Authority has developed a number of workplace policies to guide implementation of its mandate and operations. These policies are aligned to the Constitution of Kenya 2010, the Vision 2030, government regulations and guidelines provided by the Performance Contracting Management Unit, KOTDA's Strategic Plan and the country's international commitments among others

The purpose of this Workplace Sexual and Gender Based Violence Policy is therefore to serve as a point of reference in mainstreaming standard workplace principles and values to ensure fair, equitable and consistent decision-making process in the operations of KOTDA.

KOTDA strives to provide a conducive working environment in which both the employee and stakeholder's interests are served.



18/06/2021

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CHIEF EXECUTIVE OFFICER



ACKNOWLEDGEMENT

We wish to express our gratitude and sincere thanks to the CEO, Eng. John Tanui and the Board of Directors for providing the necessary resources to facilitate the development of this Workplace Sexual and Gender Based Violence Policy

We also acknowledge the contribution of the Chairs of various Committees and their members for their invaluable guidance and all the KOTDA staff who made the development of this Policy a success.

Your efforts and commitments are sincerely appreciated.

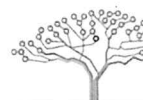
Chief Manager, Corporate Services

KoTDA



ACRONYMS AND ABBREVIATIONS

CEO	Chief Executive Officer
GAD	Gender and Development
GBV	Gender Based Violence
GOK	Government of Kenya
HR	Human Resources
KOTDA	Konza Technopolis Development Authority
MCDAs	Ministries, Counties, Departments and Agencies
PC	Performance Contract
SGBV	Sexual and Gender Based Violence
WHO	World Health Organization



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1 INTRODUCTION

Sexual and Gender-Based Violence (SGBV) is a serious human rights violation, development and public health concern. According to the World Health Organization (WHO), gender-based violence is any harmful act that is perpetrated against a person's will, and that is based on socially ascribed (gender) differences between males and females.

SGBV includes various acts that disrupt the workplace in many ways. Violence can and often does follow aggrieved and alleged perpetrators into the workplace. Threats of violence or actual incidents of violence may occur at work, sometimes with tragic results for the aggrieved and their co-workers. When GBV occurs outside the workplace, it detracts from workplace productivity by increasing absenteeism, employee turnover and resignations, and by increasing health and safety-related costs.

Cases on SGBV will be reported through various recognized reporting mechanisms. Allegations may relate to abuse perpetrated within or outside the workplace.

Employees who are perpetrating abuse might use workplace resources to threaten, harass or abuse other staff members. Their behaviour might include stalking, physical assault, sexual violence or sexual harassment. This conduct could be dangerous for the victims/ aggrieved and could bring the Authority into disrepute. In such circumstances, disciplinary proceedings should be considered and where appropriate, action will be taken to deter employees from using their position or work resources to perpetrate abuse.

On the other hand, employees may be perpetrating various forms of SGBV outside of the workplace, for example, domestic violence, physical or sexual abuse of members of the public or stalking amongst others. Such conduct could constitute a criminal offence and most likely involve criminal proceedings. However, whether or not criminal charges are involved, or there is a conviction, this behaviour may lead to disciplinary proceedings against an employee. Perpetrating these forms of abuse could also breach professional codes of conduct and bring KOTDA into disrepute, especially in an allegation of abuse was not acted upon and allowed to continue.

This policy will provide a coordinated approach in addressing all forms of SGBV related cases in KOTDA.

1.1 Legal and policy framework

Kenya has ratified various international conventions and protocols and formulated various legislations towards the elimination of all forms of SGBV. These legislations and conventions will guide in addressing SGBV in KOTDA

1.2 Definitions provided in the Employment Act

Section 6 of the Employment Act, 2007 defines Sexual harassment as:

- 1) An employee is sexually harassed if the employer of that employee or 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—
 - i. promise of preferential treatment in employment;
 - ii. threat of detrimental treatment in employment; or
 - iii. threat about the present or future employment status of the employee;
- b) uses language whether written or spoken of a sexual nature;
- c) uses visual material of a sexual nature; or
- d) shows physical behavior of a sexual nature which directly or indirectly subjects the employee to behavior 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.
- e) Or any other offences as defined in the employment act or any other sexual offences act.

1.3 Rationale

Recognizing that SGBV is a serious problem within the workplace globally, regionally and nationally, KOTDA has deemed it necessary to put in place mechanisms to address these cases as they arise.

1.4 Goal

The overall goal of this Policy is to accelerate implementation policies and strategies for prevention, responsive and support in the elimination of SGBV at KOTDA.

1.5 Objective

To progressively eliminate SGBV through the development of a preventive, protective, supportive and transformative environment.

1.6 Guiding Principles

This Policy will be guided by the following approaches:

- i. The Human Rights Based Approach, which identifies rights holders and duty bearers and their respective entitlements and obligations;
- ii. The Aggrieved-Centred Approach which prioritizes rights, needs, and wishes of the aggrieved;
- iii. The Gender-Responsive Approach, which recognizes the gender dynamics, impacts, and consequences of GBV;



- iv. The Preventive- Approach, where actors focus on activities that lead to reduction of the incidence of GBV;
- v. The Evidence-Based Approach which focuses on using factual and timely data to inform policy formulation and programming;
- vi. The Integrative and Collaborative Approach, which recognizes the complexity and multi-dimensional nature of GBV, and seeks to create linkages and logical chains of collaboration between actors in different sectors.

2 PREVENTION, REPORTING AND INVESTIGATION OF SGBV

Decisions linked to any incident of SGBV, shall be in line with the Authority's disciplinary policy and procedures.

2.1 Organizational Culture

- a. KOTDA values every employee and acknowledges that they have a right to work in an environment that is safe, promotes equality, dignity at work and encourages individuals to treat each other with respect.
- b. KOTDA has an ethical and legal responsibility to take reasonable steps to promote equality and reduce the risk of SGBV as well as take action where incidents occur or allegations of abuse are raised.
- c. KOTDA is committed to ensuring that all employees have equitable access to the provisions of this policy and take into account barriers and differential needs of staff that may require additional support due to the impact of various forms of inequality such as gender, ethnicity, sexual orientation, age, socio-economic status, religion etc.
- d. All disclosures of abuse experienced within and outside the workplace shall be treated with confidentiality and due process shall be followed. KOTDA is committed to creating an environment in which employees are safe to disclose their experience of abuse in order to access support and increase safety for themselves and others. The right of staff to disclose, however, must be respected and no one should feel pressured into sharing this information if they do not wish to do so.

2.2 Prevention of SGBV

The KOTDA Board and Management is responsible for the implementation of these mechanisms for prevention of SGBV, as well as the implementation of the overall Policy.

The following actions shall be taken for prevention of SGBV:

- i. Staff training or promotion of discussions on the concepts of Sexual and Gender-based violence;



- ii. Orientation of staff on national and international laws and on KOTDA's Workplace Policy on SGBV Policy;
- iii. Sharing the provisions of this policy with stakeholders on SGBV, abuse, harassment and exploitation and the challenges thereof;
- iv. Fair administration of justice, transparency and equity;
- v. Assurance of confidentiality during throughout the process

2.3 Reporting of Sexual and Gender- Based Violence Incidents

All cases of SGBV or incidents shall be reported immediately and not later than thirty (30) days of the incident(s) to the SGBV reporting Complaints Resolution Committee, appropriate KOTDA authority or a staff that the aggrieved is comfortable with. All cases should be forwarded to the Chief Executive Officer to institute investigations on the complaint.

The aggrieved person shall submit a SGBV Incident Complaint in writing to the Chairperson, Complaints Resolution Committee regardless of whether the investigation and resolution follows an informal or formal process.

- a. The Complaints Resolution Committee shall send an acknowledgment of the receipt of a complaint to the complainant assuring them of due process.
- b. The Complaints Resolution Committee shall establish an office/desk for receiving reports on SGBV incidents and complaints
- c. A sealed box shall also be made available in at the Authority Office Complex and all Contractor Offices based at the Technopolis for people to be able to place their complaints in anonymity;

2.4 SGBV Reporting and Complaints Handling

- a. The aggrieved shall file a formal complaint to the Chairperson, Complaints Resolution Committee or any other staff they feel comfortable to confide in.
- b. The Complaints Resolution Committee shall make recommendations on the constitution of the Adhoc SGBV Committee.
- c. The Committee members shall comply with the provisions of this policy
- d. Confidentiality and respect for the privacy of the complainant/ aggrieved and alleged perpetrator and the witness shall be upheld.
- e. The Committee shall conclude its assignment within 30 (thirty) working days from the date of appointment for each specific case and forward a report to the Chief Executive Officer or the Chairperson of the Board.



2.5 Investigation Procedures

KOTDA shall treat any allegation, disclosure or conviction of a SGBV related offence on a case-by-case basis. Where possible, depending on the circumstances, the management should undertake a developmental or educational, rather than punitive approach.

- i. The Committee shall ensure that all complaints are conducted with due regard to key principles including impartiality, fairness, objectivity, timelines, accuracy and thoroughness.
- ii. A report shall be forwarded to the CEO by the Adhoc Committee upon completion of an investigation.
- iii. The alleged perpetrator shall be given the opportunity to present his/her side of the facts in writing and in person.
- iv. Appropriate measures will be taken to protect the aggrieved from the alleged perpetrator until the conclusion of the case.
- v. Whilst an investigation process is on-going the alleged perpetrator should not be victimized and will enjoy the presumptions of innocence until the investigations prove his/her culpability.
- vi. The Chief Executive Officer in liaison with the Board of Directors, where necessary, shall act promptly and effectively on recommendations of the committee.

3 DISCIPLINARY MEASURES

Appropriate action shall be taken in accordance to the provisions of the Authority's Human Resources and Procedures Manual and other relevant laws and regulations.

3.1 Reprisals

Although nobody shall be penalized for reporting SGBV, it should be clearly stressed that slanderous or malicious claim shall not be tolerated and shall be dealt with firmly. Confirmed cases of malicious reporting shall be dealt with in accordance with the provisions of the Authority's Human Resource Manual.

3.2 Appeal

Both the aggrieved and the alleged perpetrator/accused have the right to appeal the decision taken by the Chief Executive Officer, if they are not satisfied with the measure taken. The appeal must be addressed to the **Chief Executive Officer**, within 14 (fourteen) working days from the date in which they are notified of the decision.

Cases that might be beyond the Authority's jurisdiction shall be forwarded to the relevant government authority.



3.3 Responding to alleged perpetrators

Employees may be alleged perpetrators of abuse, exploitation or harassment at the workplace.

When responding to a direct disclosure from a member of staff or where it has been established that an employee has perpetrated abuse, good practice and principles should be observed. The good practice and principles to be observed include the following:

- a. Be aware that some alleged perpetrators may minimize the extent or seriousness of the incident and blame it on other factors such as alcohol and drug abuse or stress etc;
- b. Be clear that abusive behaviour is a choice;
- c. Be respectful and do not collude;
- d. Be aware that at some level, the alleged perpetrator may be unhappy about their behaviour;
- e. Be positive; it is possible for alleged perpetrators to change if they can recognize that they have a problem and take steps to change their behaviour;
- f. Be clear that there might be need to speak to other agencies if there are grounds to breach confidentiality;
- g. Assist the alleged perpetrator to be aware of the likely costs of continued abuse such as arrest and or summary dismissal
- h. Support could also be provided through referral to occupational health and counselling programmes where need be.

4 REVIEW DATE

The policy document shall be subject to review every three years in order to keep in pace with the changing trends in the organization's environment and any other changes required as directed by the government. However, it can also be reviewed as need may arise or at such intervals as the Board and Management may determine.

5 EFFECTIVE DATE

This policy comes into effect from January 2021.

