



POLICY ON HARASSMENT AND VIOLENCE

Policy Owner:	Botle Buhle Brands (Pty) Ltd		
Effective Date:			
Version:	Version 1		
Authorised by:	CEO		25/10/2023
		Signature	Date
Note:	Botle Buhle Brands (Pty) Ltd (hereinafter referred to as Botle Buhle Brands) reserves the right to amend the contents of this policy as and when required. The policy currently in effect will apply to all employees regardless of the policy that applied at the time of employment.		

1. Purpose

- 1.1 The South African Constitution protects the right to dignity, equality and fair labour practices. In light of the Constitution, Botle Buhle Brands is committed to the elimination, prevention and management of all forms of harassment, including gender-based harassment in the workplace. The aim of this policy is to create a safe workplace that is free of harassment.
- 1.2 All employees, job applicants and other stakeholders who have dealings with Botle Buhle Brands have the right to be treated with dignity.
- 1.3 The purpose of this Policy is to address the prevention, elimination and management of all forms of harassment and violence that may occur in the workplace. Specific attention would be paid to racial, ethnic or social origin harassment.

2. Scope/objective of the policy

- 2.1 Botle Buhle Brands does not accept or tolerate verbal, physical, visual or sexual conduct that harasses other people based on any legally protected status, such as race, religion, creed, ancestry, colour, national origin, gender, age, sexual orientation, marital status, disability, veteran status or citizen status. The same is true for actions that create an intimidating, offensive or hostile environment.
- 2.2 This policy governs all forms of harassment against women, men and LGBTQIA+ and vulnerable persons in the workplace as an abuse of power.

2.3 This Policy applies to employees and applicants for employment, perpetrators and victims of harassment, but is not limited to:

- a. Owners;
- b. Employers;
- c. Managers;
- d. Supervisors;
- e. Employees;
- f. Job seekers and job applicants;
- g. Interns; Apprentices and persons on learnerships.
- h. Volunteers;
- i. Clients/customers;
- j. Suppliers;
- k. Contractors and
- l. Others having dealings with Botle Buhle Brands.

3 Definitions and Acronyms

3.1. **'Harassment'** a behaviour intended to disturb or upset. In the legal sense, it is behaviour which is found threatening or disturbing. It can also be understood as either directly or indirectly engaging in conduct that the harasser knows or ought to know causes harm or inspires the reasonable belief that harm may be caused to the complainant or a related person.

Harassment also includes the use of physical force or power, threatened or actual, against another person or against a group or community, which either results in, or has a high likelihood of resulting in social injustice, economic harm, injury, death, physical and psychological harm, mal-development, and deprivation.

3.2. **'Sexual harassment'** is unwanted conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutual. Sexual attention becomes sexual harassment if:

- a. The behaviour is persisted in, although a single incident of harassment can constitute sexual harassment; and/or

- b. The recipient has made it clear that the behaviour is considered offensive; and/or
 - c. The perpetrator should have known that the behaviour is regarded as unacceptable.
- 3.3. **'Quid pro quo 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 other benefit of an employee or job applicant, in exchange for sexual favours.
- 3.4. **'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 rating or salary increases.
- 3.5. **'Indirect harassment'** may exist when an employee is harassed as a consequence of witnessing sexual harassment of another employee. This has the effect of creating a hostile and intimidating environment.
- 3.6. **'Non-Verbal Forms'** may include indecent body exposure, display of sexually suggestive pictures or objects, leering or winking.
- 3.7. **'Verbal Forms'** may include unwanted sexual advances, verbal comments with sexual overtones, sex related jokes or insults, graphic comments about a person's body, enquiring about a person's sex life and even whistling.
- 3.8. **'Physical Forms'** may exist in unwanted conduct which may range from pinching of buttocks, sexual patting or touching, fondling of breasts or genitalia, strip-search by one in the presence of the opposite sex, molestation, assault, attempted rape or rape.
- 3.9. **'Harm'** may include any mental, psychological, physical or economic harm.
- 3.10. **'CCMA'** Commission for Conciliation, Mediation and Arbitration.
- 3.11. **'Code'** Code of Good Practice on the Prevention and Elimination of harassment in the Workplace, 2022
- 3.12. **'LGBTQIA+'** Lesbian, Gay, Bisexual, Trans, Queer, Intersex, Asexual, and other genders, and sexual identities (plus).
- 3.13. **'Bullying'** treat (someone) in a cruel, insulting, threatening, or aggressive fashion.

3.14. **'Intimidation'** the action of intimidating someone, or the state of being intimidated.

4 Legal principles

The following legislation is applicable to this policy:

- 4.1. The Labour Relations Act, 1995;
- 4.2. The Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- 4.3. Employment Equity Act 1998;
- 4.4. Code of Good Practice on Integration of Employment Equity into Human Resources Policies and Procedures.
- 4.5. Protection from Harassment Act (Act no. 17 of 2011).
- 4.6. Promotion of Equality and Prevention of Unfair Discrimination (Act, 4 of 2000).
- 4.7. Protected Disclosures (Act, 26 of 2000).

5 Policy

5.1 The policy aims to protect employees against harassment in any situation in which the employee is working, or which is related to their work. This included but is not limited to:

- a. Public and private spaces in the workplace in which people perform work;
- b. Places where employees are paid;
- c. Take rest breaks (i.e., meals, uses sanitary, washing or changing, breastfeeding and medical facilities);
- d. Work related trips;
- e. Training;
- f. Events or social activities;
- g. Work related communications;
- h. Employer provided accommodation and;
- i. Commuting to and from work in transport provided or controlled by the employer.

5.2. Harassment will not be permitted in the workplace and a zero-tolerance policy in this regard will apply.

5.2.1. Types of harassment in the workplace that would not be permitted:

- Harassment may be physical, verbal, or psychological conduct.

- Physical harassment includes physical attacks, simulated, or threatened violence or gestures (such as raising a fist as if to strike a person or throwing objects to or near a person).
- Verbal bullying may include threats, shaming, hostile teasing, insults, constant negative judgement and criticisms or racists, sexists, LGBTQIA+ phobic language.
- Psychological harassment in the workplace may be associated with emotional abuse and involves behaviour that has serious negative psychological consequences for the victim/s such as verbal abuse, bullying and mobbing. Please use bullets below instead of numbering & fix the font.
- Slandering or maligning an employee or spreading rumours maliciously.
- Humiliating conduct, insults or demeans an employee.
- Withholding work related information or supplying wrong information.
- Sabotaging or impeding the performance of work.
- Ostracising, boycotting, or excluding the employee from work- or work-related activities, persecution such as threats and the inspiration of fear degradation.
- Intolerance of psychological, medical, disability or personal circumstances.
- Surveillance of an employee without his/her knowledge and with harmful intent.
- Use of disciplinary or administrative sanctions without objective course explanation, or efforts to problem solving.

5.3. Examples of harassment include the following (but are not limited to):

5.3.1. Overloading a person with work in the hope that they will fail.

5.3.2. Constant criticism regarding work performance, but at the same time not criticising any specific aspects of the work.

5.3.3. Misuse of power or position by a superior.

5.3.4. Victimisation.

5.3.5. Degrading a person in the presence of others by passing remarks about their work performance, their brain power, or the lack of it.

- 5.3.6. Any unfair treatment based on arbitrary grounds such as race, gender, sexual orientation, religion etc.
- 5.3.7. Making unwelcome sexual advances.
- 5.3.8. Spreading of rumours about a person.
- 5.3.9. Insulting a person on the grounds of gender, race, or disability.

- 5.4. Persons who have been subjected to harassment in the workplace have a right to raise a grievance about it according to the Grievance Procedure.
- 5.5. The Employer will take proactive and remedial steps to prevent all forms of harassment, including:
 - 5.5.1. Assessing the risk of harassment that employees are exposed to;
 - 5.5.2. Implementing the policy on harassment and violence;
 - 5.5.3. Following the necessary procedures on harassment;
 - 5.5.4. Maintain confidentiality of cases related to harassment and violence.
 - 5.5.5. Considering sick leave in certain circumstances.

- 5.6. Allegations of harassment and violence in the workplace will be properly investigated. Assessment of whether the language or conduct amounts to harassment depends on the circumstances of particular case/incident, including:
 - 5.6.1. Whether the conduct was persistent or harmful, demeaning, impairing dignity, humiliating.
 - 5.6.2. Creating a hostile work environment.
 - 5.6.3. Was calculated to induce submission by actual/threatened adverse consequences.
 - 5.6.4. Whether the language/conduct in insulting, abuse or derogatory.
- 5.7. The Employer shall determine the appropriate action(s) to be taken on acceptance of such a grievance/complaint.
- 5.8. The following factors may be relevant to determine whether harassment has occurred:
 - 5.8.5. The context of the harassment;
 - 5.8.6. The circumstances of the complainant and the impact that the conduct has had on the complainant;
 - 5.8.7. The respective positions of the harasser/perpetrator and complainant.



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- 5.9. The Employer will take disciplinary action against an Employee that does not comply with the policy.
 - 5.10. Employees will be protected against victimisation, retaliation for lodging grievances and from false accusations.
 - 5.11. It is not necessary to establish the intention or state of mind of the harasser/perpetrator in order to prove harassment for purposes of the Employment Equity Act.
 - 5.11.1. If the conduct was calculated or intended to offend the victim that may be an aggravating factor relevant to determining a remedy for the complainant.
 - 5.11.2. The intention of the harasser/perpetrator will be relevant to disciplinary proceedings.
 - 5.12. Affected employees are encouraged to make use of the onsite counsellor should they require trauma counselling.
 - 5.13. Botle Buhle Brands shall ensure that sexual harassment complaints are investigated and dealt with in a manner whereby the identities of the persons involved are kept confidential, where reasonably possible.
 - 5.14. Botle Buhle Brands will ensure confidentiality in the following way:
 - 5.15.1. Botle Buhle Brands and employees must ensure that grievances about harassment are investigated and handled in a manner that ensures that the identities of the persons involved are kept confidential for the purpose of protecting the confidentiality of all parties involved.
 - 5.15.2. All internal and external communications related to an instance of harassment should be treated as confidential.
 - 5.15.3. Considerations of confidentiality do not preclude Botle Buhle Brands from taking appropriate steps to protect the safety and dignity of employees, either during the conduct of an investigation or subsequent steps.
 - 5.15.4. In cases of sexual harassment, management, employees, and all parties concerned must endeavour to ensure confidentiality in the disciplinary inquiry. Only members of management designated to handling disciplinary cases as well as the complainant/victim, representatives, the alleged perpetrator, witnesses when giving evidence and an interpreter, if required, should be present in the disciplinary hearing.

5.15.5. Botle Buhle Brands is entitled to disclose to the complainant/ victim, the perpetrator and/or his/her representative, all relevant information as may be reasonably necessary to enable the parties to prepare for any proceedings in terms of this Policy.

6 Procedure

- 6.1. The procedures for dealing with harassment matters are aimed at the resolution of problems in a gender-sensitive, confidential, efficient, and effective manner.
- 6.2. Botle Buhle Brands is obliged to investigate all reported incidents and complaints of alleged harassment and shall advise the victim/complainant of the informal and formal procedures available to deal with the alleged harassment.
- 6.3. Reporting harassment:
 - 6.3.1. In accordance with the provisions of section 60 (1) of the EEA any allegation of conduct by an employee in contravention of the EEA must immediately be brought to the attention of Botle Buhle Brands. Allegations of harassment which are made within an appropriate time, must be investigated and appropriate steps must be taken to prevent a re-occurrence. Appropriate steps may include disciplinary action against alleged perpetrators.
 - 6.3.2. Botle Buhle Brands will take into account that in many cases of harassment, particularly alleged sexual harassment cases, a victim may not lodge a grievance immediately as a result of factors such as fear of reprisals and the relative positions of the victim and the perpetrator in the workplace.
 - 6.3.3. Harassment cases may be brought to the attention of Botle Buhle Brands by the victim or by any other person aware of the harassment. However, where the harassment is of a particularly serious nature, the victim should be encouraged to inform Botle Buhle Brands directly.
- 6.4. Obligations of Botle Buhle Brands.
 - 6.4.1.1 Consult all relevant parties;
 - 6.4.1.2 Take the necessary steps to address the complaint in accordance with this Policy, where applicable, the collective bargaining agreement; and
 - 6.4.1.3 Take the necessary steps to eliminate the harassment.

6.4.1.4 The steps to be taken by Bottle Buhle Brands on receipt of a complaint, should include, but not limited to:

- a. Advising the complainant/victim of the informal and formal procedures available to deal with the issue, as is set out in this Policy.
- b. Where reasonably practical, offering the complainant/victim advice, assistance and counselling as set out in this Policy; including during the disciplinary enquiry that may be instituted; and
- c. Following the procedures, set out in this Policy in a manner that is procedurally and substantively fair.

6.4.1.5 Advice and assistance.

- a. A complainant/victim, in particular in sexual harassment cases, may require advice and assistance, including counselling.
- b. As far as practically possible, Bottle Buhle Brands should designate a person outside the line of management who complainants/victims may approach for confidential advice and/or counselling.

6.5 Employees can take one of two options to resolve a problem relating to 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 should be under no duress to accept one or the other option.

6.5.1. Informal procedure:

- a. The complainant or another appropriate person explains to the perpetrator that the conduct in question is not welcome, that it is related to a prohibited ground and its impact on the victim/complainant, for example it makes the person feels uncomfortable and that it interferes with their work; or
- b. An appropriate person approaches the perpetrator, without revealing the identity of the victim and explains to the perpetrator that certain forms of conduct constitute harassment on a prohibited ground, are offensive and unwelcome, make the employee uncomfortable, and interfere with his/her work.

6.5.2. Formal procedure:

- a. A complainant/victim may choose to follow formal procedures, either with or without following informal procedures.

- b. Should a complainant/victim choose not to follow a formal procedure, Botle Buhle Brands should still assess the risk to other persons in the workplace where formal steps have not been taken against the perpetrator.
- c. In assessing such risk, Botle Buhle Brands must take into account all relevant factors, including the severity of the harassment and whether the perpetrator has a history of harassment. If it appears to Botle Buhle Brands after a proper investigation that there is a significant risk of harm to other persons in the workplace, Botle Buhle Brands must follow a formal procedure, irrespective of the wishes of the complainant/victim and advise the complainant/victim and/or his/her representative accordingly.
- d. Steps of the formal procedure:
- The grievance/complaint must be lodged with the People department.
 - Botle Buhle Brands' internal grievance and/or disciplinary procedure must be followed including provision for the complainant/victim's desired outcome of the procedures;
 - Time frames may be set to provide for the grievance to be dealt with expeditiously;
 - Should the matter not be satisfactorily be resolved by the internal procedures, a complainant/victim of harassment may refer the dispute to the CCMA or Bargaining Council for conciliation, or to the Labour Court as provided for in section 10 of the EEA. Claims under PEPUDA may be referred to the Equity Court. An alleged perpetrator of harassment may refer a dispute arising from disciplinary action taken by Botle Buhle Brands to the CCMA, or Bargaining Council or, where appropriate to the Labour Court; and
 - That it would be a disciplinary offence to victimise or retaliate against a complainant who in good faith lodges a grievance of harassment.



7 Related Policies & Procedures

- 7.1 Disciplinary policy & procedure
- 7.2 Grievance policy & procedure

Note: should this policy be silent on any aspect relating to sexual harassment, the Code of Good Practice on Sexual Harassment will be applied.

8 Related documents

- 8.1 Guidelines for conducting a risk assessment for the prevention of violence & harassment in the workplace.