



Malawi Police Service

A professional Police Service for a safe and secure Malawi



Anti-Sexual Harassment Policy

*"A safe working environment
free from Sexual Harassment is possible"*

Mandate

The Malawi Police Service shall be an independent organ of the executive which shall be there to provide for the protection of public safety and the rights of persons in Malawi according to the prescriptions of the Malawi Constitution and any other law.

Vision

A professional Police service for a safe and secure Malawi.

Mission Statement

To provide quality policing services in partnership with the community and stakeholders.

Values

Professionalism

Integrity

Responsiveness

Independence

Table of Contents

1. Foreword.....	4
2. Policy Statement.....	5
3. Aim of the Policy.....	5
4. Legal Basis.....	5
5. Status and Scope.....	5
6. Guiding Principles.....	5
7. Definition of terms.....	6
8. Priority Areas.....	7
8.1 Recruitment.....	7
8.2 Training.....	7
8.3 Promotions.....	8
8.4 Deployments, Attachments and Secondments.....	8
8.5 Postings and placement.....	8

9. Reporting Mechanism.....	8
9.1 Informal Mechanism.....	8
9.2 Formal Mechanism	9
9.3 Report to Outside Institutions	9
10. Protection of victims, whistleblowers and witnesses.....	9
11. Linkage between the Policy and the Code of Disciplinary Conduct for Police Officers.....	10
12. Capacity Building and Awareness	10
13. Roles and Responsibilities.....	10
13.1 Regional Commissioners.....	10
13.2 Designated Committee	10
13.3 Officer-in Charge	11
13.4 The Spirituals, Counselling and Integrity Branch	11
14. Implementation of the Policy	11

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1. Foreword



The Malawi Police Service (MPS) has developed this Anti-Sexual Harassment Policy with an aim of contributing towards prevention and eradication of sexual harassment in the work place. The MPS acknowledges the existence of sexual harassment which negatively affects its officers and other employees regardless of their sex. The Policy thus provides safeguards to officers and employees within the MPS from unwanted sexual advances. It also provides guidelines and procedures when lodging or handling complaints, protection of victims, witnesses and whistle blowers from any possible reprisals.

The development of this Policy follows enactment of Gender Equality Act in 2013, which obliges the Government to develop and implement appropriate policy and procedures aimed at eliminating sexual harassment. The law represents Malawi's commitment in the attainment of gender equality and a positive step towards the attainment of one of the principles of national policy, namely 'gender equality' as provided for in section 13 of the Constitution. The MPS recognizes that sexual harassment is a form of discrimination in particular against women in the work places and thus a human right violation. This Policy therefore represents commitment by the MPS to prevent and eliminate sexual harassment.

The MPS is committed to providing a safe environment for all its officers and employees free from sexual harassment. The MPS shall not tolerate any form of sexual harassment in the workplace. It shall put measures to prevent any form of sexual harassment, treat all incidents seriously, and promptly investigate with full confidentiality all allegations of sexual harassment. No one should be victimized for making such a complaint.

The Policy is the authoritative guide to tackling sexual harassment in the MPS, complemented by the Gender Equality Act. It has the force of Service Standing Order. Any officer or person found to have sexually harassed another will face disciplinary or criminal action.

The MPS remains committed to ensure respect for human rights not only to the general populace outside the MPS but also to all officers and employees within the MPS so that they should have a safe working environment.



Mrs. Merlyne Nachulu Yolamu, PPM Inspector General of Police

2. Policy Statement

The Malawi Police Service (MPS) is committed to providing a safe environment for all its officers and other persons working for the MPS free from sexual harassment. MPS adopts a zero tolerance policy for any form of sexual harassment in the workplace; will put in place measures to prevent sexual harassment; seriously and promptly investigate all allegations of sexual harassment. Any officer or other employee found to have sexually harassed another shall face disciplinary action and / or criminal prosecution.

3. Aim of the Policy

This Policy aims at preventing and eliminating sexual harassment in the MPS thereby creating a safe and conducive working environment for both male and female officers and other employees working for MPS.

4. Legal Basis

Sexual harassment violates human rights protected under the Constitution of the Republic of Malawi (Constitution). Similarly, section 6 of Gender Equality Act of 2013 criminalizes sexual harassment. Section 7 of the Act puts an obligation on all government institutions to develop and implement appropriate policy and procedures aimed at eliminating sexual harassment.

5. Status and Scope

- a) This Policy is made under section 8 (1) of the Police Act as a Service Standing Order for observance by all police officers and breach of the Policy shall be treated as a violation of the Code of Disciplinary Conduct for Police Officers.
- b) Notwithstanding the fact that breach of the Policy may be treated as a disciplinary offence, acts of sexual harassment constitute an offence under the Gender Equality Act and the Penal Code and perpetrators shall be prosecuted accordingly, if the circumstances so require.
- c) This Policy shall apply to all Police Officers regardless of rank and sex and all other persons working for the MPS.

6. Guiding Principles

The following principles shall guide the implementation of this policy:

- a) **Integrity:** All Police Officers holding actual or purported power shall exercise such powers in an honest, trustworthy and reliable manner to prevent situations conducive for sexual harassment.
- b) **Professionalism:** Career benefits within the MPS shall be allocated to officers with required competencies, demonstrable skills for the job, and who meet the required standards.
- c) **Responsiveness:** All complaints of sexual harassment will be taken seriously, investigated swiftly and dealt with decisively.
- d) **Confidentiality:** All information relating to cases of sexual harassment shall be treated with utmost confidentiality. All complaints, reports and tip-offs shall only be shared to the perpetrator and potential witnesses for purposes of conducting an investigation into the alleged act or complaint.
- e) **Respect for human rights:** Sexual harassment cases shall be dealt with in a manner that respects and protects human rights for victims, offenders, whistleblowers, and witnesses including the right to dignity, privacy, nondiscrimination, and fair administrative action.
- f) **Non - victimization:** No one shall be victimized for making a sexual harassment complaint or report.
- g) **Victim- Centered Approach:** In managing cases of sexual harassment, there shall be systematic and compassionate focus on the needs, welfare and concerns to ensure the victim receives the best support.

7. Definition of terms

Designated Committee: A Committee appointed or designated by the Inspector General to receive, investigate and make recommendations for action on all complaints and allegations of sexual harassment at all levels within the MPS. The committee member shall be a person that has not been disciplined for sexual harassment; a person with good morals, who abides to ethics, who is professional and has integrity.

Offender: An Officer or any other person working for the MPS, regardless of their sex, who has engaged in sexual harassment.

Sexual harassment: Any form of unwanted verbal, non-verbal, or physical conduct of a sexual nature in circumstances in which a reasonable person, having regard to all the circumstances would have anticipated that the other person would be offended, humiliated or intimidated.

Sexual Harassment (forms and examples)

Examples of conduct or behavior, which constitute sexual harassment, are:

a) Physical conduct

- i. Unwelcome physical contact including patting, pinching, inappropriate touching, kissing, hugging and fondling,
- ii. Physical violence, including sexual assault.

b) Verbal conduct

- i. Sexual advances, ii. Comments on a worker's appearance, age, private life, etc.
- iii. Sexual comments, stories and jokes,
- iv. Repeated and unwanted social invitations for dates or physical intimacy,
- v. Insults based on the sex of the worker
- vi. Sending sexually explicit messages by phone, email or any social media platform

c) Non-verbal conduct

- i. Display of sexually explicit or suggestive material,
- ii. Sexually-suggestive gestures,
- iii. Indecent exposure
- iv. Whistling
- v. Leering/ staring, and
- vi. Any unwanted and unwelcome gesture by the recipient

Victim: An officer or any other person working for the MPS or prospective employee, regardless of sex, who has been subjected to sexual harassment.

8. Priority Areas

The following have been identified as priority areas for this Policy:

8.1 Recruitment

- i. MPS shall put in place a transparent recruitment mechanism that takes into account the vulnerability of prospective recruits to sexual harassment.
- ii. Prospective recruits shall be informed of their right to complain about sexual harassment and channels for lodging such complaints shall be made available to them.

8.2 Training

- i. Sexual or any form of intimate relations between trainers and other members of staff on one hand and Police Recruits on the other shall be prohibited at all times and shall qualify as sexual harassment within the meaning of this Policy.
- ii. Trainees shall be informed of their right to complain about sexual harassment and channels for lodging such complaints shall be made available to them.
- iii. The Head of the training institution or any other person so appointed, shall investigate all alleged, suspected or reported cases of sexual harassment and refer the same to the Designated Committee.

8.3 Promotions

- i. Standards to be attained by officers of each rank to qualify for promotion shall be in accordance with Service Standing Order 77 and the same shall be disseminated to all Police Officers.
- ii. Promotion procedures shall be disseminated to all Police Officers to reduce misconceptions on power relations on promotions and career progression.
- iii. Police Officers shall be empowered to report any cases of sexual harassment emanating from the promotion process.

8.4 Deployments, Attachments and Secondments

- i. The standards to be attained by Officers to be deployed, attached or seconded to branches and institutions outside the Service including private duties, and Peace Keeping Missions shall be transparent and disseminated to all Police Officers.
- ii. Police Officers shall be empowered to report any cases of sexual harassment emanating from the deployment and secondment processes.

8.5 Postings and placement

- i. All Officers responsible for postings and placement at various levels shall ensure that such decisions are not influenced or perceived to have been influenced by sexual relationships or absence thereof between the concerned parties.
- ii. Any Officer or employee of the MPS who feels that they have suffered victimization through their posting or placement in a manner that amounts to sexual harassment shall lodge a complaint to the Designated Committee.

9. Reporting Mechanism

As a general principle, it shall be permissible when reporting cases of sexual harassment for Police Officers to by-pass or circumvent the prevailing complaint reporting mechanism including the chain of command and the need to avoid anonymity.

Sexual harassment may be reported and dealt with informally or formally and may also be reported to outside institutions.

9.1 Informal Mechanism

- a) If the victim wishes to deal with the matter informally, they shall report the matter to the Officer In-Charge, Station Officer, or any Head of Branch of their choice.

- b) The Officer to whom the report is made shall give an opportunity to the alleged harasser to respond to the complaint.
- c) The Officer shall facilitate discussion between both parties to achieve an informal resolution which is acceptable to the complainant
- d) In all cases where an informal resolution has not been reached, the complainant or the Officer may refer the matter to the designated Committee.

9.2 Formal Mechanism

- a) The Inspector General shall appoint Officers to form a committee known as the Designated Committee at national and regional level which shall be responsible for receiving and investigating all concerns, tip-offs and complaints of sexual harassment.
- b) The composition of the Designated Committee shall be inclusive in terms of skills, sex and seniority of Officers.
- c) The Designated Committee shall be assigned specific communication channels including e-mail addresses and phone numbers for purpose of receiving complaints and tip-offs and these communication channels shall be disseminated to all Police formations across the country.
- d) Upon receipt of the complaint or tip-off, the Designated Committee shall investigate the matter within a period of 30 days and produce a report with recommendations to the Inspector General for appropriate action.
- e) The victim shall have the right to follow up with the Designated Committee the progress of the case after the expiry of the 30 days' period.

9.3 Report to Outside Institutions

- a) Any victim of sexual harassment can also make a complaint to institutions outside the MPS with legal mandate to deal with such cases. The institution where the MPS staff will take the complaint to, will liaise with the MPS sexual harassment committee where need arises and the victim will be assisted accordingly.

10. Protection of victims, whistleblowers and witnesses

- a) No Officer or any other person working for the MPS shall be directly or indirectly victimized for lodging a complaint, whistleblowing or providing a tip off or testifying in a case of sexual harassment.
- b) All information relating to any complaint or investigation in a case of sexual harassment shall be treated with strict confidentiality and shall be disclosed solely on need to know basis for purposes of investigating or taking action against the offenders.
- c) Victims, whistle blowers and witnesses shall be protected against revenge from the offenders and any other person accused of, or having interest in the sexual harassment issue.
- d) The Designated Committee may recommend to the Inspector General any measures for the protection of victims in imminent danger of or continued sexual harassment where it appears reasonable and necessary to do so.

- e) No Officer or any person working in the MPS shall be penalized or unfairly treated for making a complaint or providing a tip-off that is proven inaccurate or mistaken or that is not supported by sufficient evidence. Provided that the Designated Committee may recommend disciplinary action against any complainant or whistleblower where it is proven that the motive for lodging the complaint or providing the tip-off was solely malicious.

11. Linkage between the Policy and the Code of Disciplinary Conduct for Police Officers

Upon receipt of recommendations from the Designated Committee, the Inspector General may direct that disciplinary proceedings be commenced against any such offender and the procedure for dealing with disciplinary offences shall be applied.

12. Capacity Building and Awareness

All Officers and employees should be trained and sensitized on the aspirations and provisions of this policy. MPS sexual harassment committee members should be trained on management of sexual harassment cases.

13. Roles and Responsibilities

The effective implementation of this Policy will depend on the coordination of several Officers and portfolios within the MPS. The following shall be the key roles and responsibilities of the Officers below:

13.1 Regional Commissioners

The Regional Commissioner shall:

- a) Ensure that he/she creates a working environment free from sexual harassment.
- b) Ensure that reports of sexual harassment are managed with confidentiality and speed.
- c) Ensure that all Officers and employees his/ her jurisdiction are aware of the Policy.
- d) Provide resources to the Regional Designated Committee for the exercise of its mandate.
- e) Ensure that victims of sexual harassment are accorded the necessary support.

13.2 Designated Committee

The Designated Committee shall:

- a) Upon receipt of a report or tip-off, immediately record the dates, times and facts of the incident (s).
- b) Ascertain the views of the victim as to what outcome she/he wants.
- c) Ensure that the victim understands procedures for dealing with the complaint.
- d) Ensure that the victim knows that they can lodge the complaint outside of the Service.
- e) Interview the victim and the alleged harasser separately unless there is strict need for confrontation.
- f) Interview other relevant third parties separately.
- g) Decide whether or not the incident(s) of sexual harassment took place.

h) Produce a report detailing the investigations, findings and any recommendations.

13.3 Officer-in Charge

The Officer-in-Charge shall:

- a) Ensure that he/she creates a working environment free from sexual harassment.
- b) Ensure that reports of sexual harassment are managed with confidentiality and speed.
- c) Ensure that all Officers and employees under his supervision are aware of the Policy.
- d) Cooperate with the Designated Committees in the exercise of its mandate.
- e) Ensure that victims of sexual harassment are accorded the necessary support.

13.4 The Spirituals, Counselling and Integrity Branch

The Spirituals, Counselling and Integrity Branch shall provide counselling and psychosocial support to all Officers and employees (both victims and offenders) affected by sexual harassment.

14. Implementation of the Policy

MPS will ensure that this Policy is widely disseminated to all Officers regardless of rank and sex and all other persons working for the MPS.

All recruits and cadet Officers must be trained on the content of this Policy as part of their training curriculum. The Policy will also be used for all in-service training; the command and staff college refresher course on the content of this Policy. Every Regional Commissioner, Unit, and Department Head is responsible for ensuring that all officers know the Policy regardless of rank and other civilian staff employees.

15. Monitoring and Evaluation

The National Designated Committee will prepare quarterly and annual reports on compliance with this Policy, including the number of incidents, how they were dealt with, and any recommendations made. Through these reports, the High Command of the MPS will evaluate the effectiveness of this Policy and make any changes needed.