

NATIONAL ASSEMBLY

**QUESTION FOR WRITTEN REPLY**

# QUESTION NO. 715

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## INTERNAL QUESTION PAPER 6 OF 2018

**715. Mr S C Motau (DA) to ask the Minister of Home Affairs:**

1. Whether his department has a sexual harassment and assault policy in place; if not, (a) why not and (b) by what date will his department have such a policy in place; if so, (i) how are reports investigated and (ii) what are the details of the consequence management and sanctions stipulated by the policy;

(2)(a) what is the total number of incidents of sexual harassment and assault that have been reported in his department (i) in each of the past three financial years and (ii) since 1 April 2017, (b) what number of cases were (i) opened and concluded, (ii) withdrawn and (iii) remain open based on the incidents and (c) what sanctions were issued for each person who was found to have been guilty? NW789E

**REPLY:**

1. Yes.

(1)(a-b) Not applicable.

(1)(i) The reports are investigated by Counter Corruption Branch or by Labour Relations Directorate through grievance procedures and other mechanisms as provided for in the Disciplinary Code and Procedures; Labour Relations Act; and the Departmental Sexual Harassment Policy.

The Policy stipulates the following sanctions in the case of guilty verdict:

* Counselling
* Verbal Warning
* Written Warning
* Final Written Warning
* Suspension (Without Payment for a period not more than three months)
* Demotion
* A combination of the above
* Dismissal.

(2)(a)(i) The recorded cases reported for the preceding three financial years in the department are 2 and they are as follows:

|  |  |  |
| --- | --- | --- |
| 2014/15 FY | 2015/16 FY  | 2016/17 FY |
| 0 | 1 | 1 |

(2)(a)(ii) 1 Case has been opened in 2017/18 to date.

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(2)(b) The information is as follows.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Financial Year | 2014/15 FY | 2015/16 FY  | 2016/17 | 2017 /2018 |
| 1. Opened
 | 0 | 1 Case | 1 Case | 1 Case |
| 1. Concluded
 | 0 | 1 Case but taken for review | 1 Case | 0 |
| 1. Withdrawn
 | 0 | 0 | 0 | 0 |
| 1. Remain opened
 | 0 | 1 Case. | 0 | 1 Case  |

(2)(c) The information is as follows:

2015/16 FY

* The case involved a female foreign national (the complainant) and an immigration officer at level 8 (the alleged perpetrator). Charges of misconduct were preferred against the Officer and a disciplinary hearing was held. The Officer was found guilty and a sanction of dismissal was pronounced by the chairperson of the disciplinary hearing. The dismissal was implemented. From the employee side the matter have been taken for review of the decision of the presiding officer.
* The employee took the matter to the Labour Court for review – the case is still pending.

2016/17 FY

* This case was registered as a grievance but the case was investigated and an outcome was issued. The employee consequently registered a dispute with CCMA based on sexual harassment. The Commissioner ruled that the employee must be compensated for sexual harassment. The department implemented the sanction and the employee was compensated.
* The case is completed and concluded - closed.

2017/18 FY

* The case is in progress. The employee initially registered a grievance and the grievance resolution meeting, the chairperson recommended that the alleged perpetrator should be charged with acts of misconduct for sexual harassment. The charge sheet has been formulated and the disciplinary hearing is in progress.
* The case is still on and not yet finalised – in the process