

THE POLICY AND REGULATIONS AGAINST SEXUAL HARASSMENT



Approved by the University Council

on 27th September 2006
and amended on 5th December, 2018

SECTION ONE: POLICY PREAMBLE AND INTRODUCTION

PREAMBLE

Whereas under section 40(2)(b) of the Universities and Other Tertiary Institutions Act, 2001 (as amended) Makerere University Council is empowered to formulate policies necessary for the fulfillment of the objectives and functions of the University;

And the Bill of Rights of the 1995 Constitution of Uganda and other international human rights instruments and protocols to which Uganda is a State Party provide, inter alia, that all persons are equal in all aspects of life and shall enjoy equal protection of the law;

And in recognition of its vision to be a centre of academic excellence, providing world-class teaching, research, learning and services relevant to the sustainable development needs of society, the University has made a commitment to create a conducive environment of reciprocal respect among members of the University community;

And the University recognizes that a conducive environment for academia and related employment includes due regard for the rights and feelings of all persons free from sexual harassment;

And the University is committed to upholding professional ethics and conduct for the smooth running of the University;

And the University recognises that sexual harassment is a negation of reciprocal respect in addition to being a violation of the fundamental rights, dignity and integrity of the person and that it undermines the environment required for the advancement of learning, the dissemination of knowledge, research and productive work;

And while in September 2006 the University Council promulgated a Policy and Regulations against Sexual Harassment, several gaps and inadequacies in the said Policy have necessitated that the said Policy be revisited to address the shortfalls therein.

Now therefore, it is hereby resolved by the University Council that a revised and amended Policy Against Sexual Harassment be adopted as herein below.

1 INTRODUCTION

- (a) This Policy and Regulations Against Sexual Harassment is intended to address acts and practices related to sexual harassment at all levels within the structures of Makerere University.
- (b) In line with the 1995 Constitution of the Republic of Uganda (as amended) and the international and regional human rights instruments and protocols to which Uganda is a State Party which guarantee all Ugandans equality, dignity and non-discrimination, Makerere University reaffirms its zero-tolerance to sexual harassment and its commitment to creating an environment that respects and protects the rights of all members of the University community.
- (c) This Policy applies to all members of the University Community
- (d) Sexual Harassment may occur between equals but most often occurs in situation where one person has power over another.

2. Citation

This Policy may be cited as “The Makerere University Policy and Regulations Against Sexual Harassment, 2006 (as amended)”.

3. Definitions

For the purposes of this policy, the following words shall have the meanings attributed to them as follows:

“Bad Faith” means a sexual harassment complaint brought with an ulterior motive prompted by ill will, hostility, malice and/or which is rooted in personal animosity.

“Complainant” means a person who lodges a complaint of sexual harassment.

“Conflict of Interest” means a situation where the personal interests of a member investigating sexual harassment are incompatible or have the potential to be incompatible with his/her duties and responsibilities to the University. For example, a member of an ad hoc Committee who has close relations with the complainant or the respondent.

“Confidentiality” means protecting the people involved in sexual harassment cases including the complainant, the respondent and witnesses, such that the information they share is accessed only by authorized persons.

“Contractors” means persons or entities which have been engaged by the University to provide goods and services or execute works on a contractual basis.

“Frivolous” refers to a complaint made in bad faith.

“Hostile environment” means unwelcome sexual activity or conduct that is serious or pervasive to the extent that it interferes with or limits the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive.

“Staff” means all employees, practitioner staff, professional staff, contractors and volunteers of the University .

“Partners” mean persons or entities that have entered into a partnership of any nature with the University and/or members of the University Community, including suppliers and service providers.

“Respondent” refers to a person against whom a sexual harassment complaint has been lodged.

“Sexual harassment” means unwelcome sexual advances, requests for sexual favours or unwanted physical, verbal or non-verbal conduct of a sexual nature. Such conduct would constitute sexual harassment when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic achievement or advancement; or
- (b) Submission to or rejection of such conduct is used or threatened to be used as the basis for decisions affecting the employment and/or the academic standing of an individual; or

- (c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, threatening, hostile or offensive working or learning environment.

"Sexual assault" means non-consensual and/or abusive sexual conduct, including sexual intercourse.

"Sexual body parts" include, but are not limited to, areas around the genitals, breasts and buttocks.

"Sexual Act" Shall be as defined in the Uganda Penal Code Act 2007.

"Student" refers to a person who has been duly registered by the University for a programme of study.

"University" means Makerere University.

"University Community" means students, alumni, academic, administrative and support staff, contractors, partners and visitors to all on and off-campus university premises and facilities.

4. Objectives

The objectives of this policy are three-fold:

- (a) To sensitize the University community about the evils of sexual harassment, thereby engendering a sense of social responsibility and zero tolerance for such behavior.
- (b) To establish an institutional framework that encourages victims of Sexual Harassment to seek redress.
- (c) To take action in eliminating sexual harassment at Makerere University and impose such sanctions and corrective action as may be deemed necessary.

5. Enforcement Principles

Enforcement and implementation of this policy shall be based on the following principles:

- (a) Any complaint lodged under this policy will be treated with diligence, confidentiality, fairness, justice and due process.
- (b) All complaints of sexual harassment shall be treated with confidentiality. Only those individuals involved in the investigation and decision-making processes shall ordinarily be provided access to information regarding any complaint of sexual harassment.
- (c) Whereas anonymous complaints are ordinarily not permissible they should not be ignored. Zero tolerance to sexual harassment means that all allegations should be investigated to assess the merits of all the circumstantial evidence.
- (d) In any investigation of a sexual harassment complaint, the respondent must be made aware of the complaint and of the identity of the complainant(s).
- (e) Investigations must be conducted promptly and thoroughly.
- (f) Both the complainant and the respondent must be notified of the outcome of the investigation.
- (g) If there is sufficient evidence to sustain a charge of sexual harassment, the matter shall be referred to the appropriate internal disciplinary organs for further management. If the investigation reveals misconduct that falls outside the purview of the internal disciplinary organs, the same shall be referred to the appropriate external entity.

6. Strategies

The University shall achieve the objectives of this policy through the following strategies:

- (a) Adopting and effectively implementing this Policy as prescribed by law.

- (b) Conducting regular sensitization and educational programmes for all members of the University Community.
- (c) Establishing an effective mentoring programme for staff and students.
- (d) Providing effective guidance and counseling services for both victims and perpetrators of sexual harassment.
- (e) Equipping members of the University community with skills and knowledge to resist and defend themselves against sexual harassment.
- (f) Integrating advocacy against sexual harassment into the curriculum of the compulsory course unit on ethics for all students.
- (g) Establishing a gender-responsive monitoring and evaluation framework for the prevention of sexual harassment.
- (h) Promoting action-based research that highlights the root causes and complexities of sexual harassment and developing a culture that is responsive to diversities.
- (i) Establishing telephone hotlines and other forms of communication for reporting sexual harassment complaints.
- (j) Maintaining archival files for investigated cases of sexual harassment and assaults.

7. Sexual Harassment and Academic Freedom

This policy is intended to combat sexual harassment and abuse and shall not limit academic freedom or the principles of free inquiry and expression.

8. Implementation Organs

- (a) The Office of the Vice Chancellor
- (b) The Gender Mainstreaming Directorate
- (c) The Directorate of Legal Affairs
- (d) The University Guidance & Counseling Centre

- (e) The Vice Chancellor's Roster of 100 University Anti - Sexual harassment Committee Members
- (f) The Directorate of Human Resources
- (g) The University Hospital
- (h) Academic and Administrative Units
- (i) Other duty bearers of the University: Principals, Deans, Heads of Departments, Programme Coordinators, Examination Coordinators, Wardens, Student leaders and contractors
- (j) Security Agencies

9 Coordination of implementation

The Gender Mainstreaming Directorate is mandated to coordinate all the implementation organs. The Directorate of legal affairs shall provide legal support.



SECTION TWO: PROCEDURAL MATTERS

1. Application

Sexual harassment is prohibited for both on-campus and off-campus University settings against, between or among:

- (a) Students;
- (b) Academic Staff;
- (c) Administrative Staff;
- (d) Support Staff;
- (e) Contractors
- (f) Partners
- (g) Visitors
- (h) Researchers

2. Examples of Sexual Harassment and Abuse

Examples of sexual harassment include, but are not limited to:

- (a) Inappropriate physical contact of any body parts such as patting, scratching, pinching, stroking or brushing up against the body;
- (b) Unwanted and persistent explicit or implicit propositions to engage in sexual activity;
- (c) Intentional disrobing or exposure of sexual body parts or underwear;
- (d) Unwanted demands for sexual relations in exchange for employment or academic or other favours;
- (e) Sexual stares such as leering and ogling with suggestive overtones;
- (f) Lustful gestures, such as hand or sign language to denote sexual activity;
- (g) Stalking through following or spying on a person.
- (h) Sexual assault and rape.

- (i) ICT- or Cyber-based sexual harassment such as trolling through tweets, "sexting" and sharing unwanted private photos on social media platforms.

3. Prohibition of Retaliation

- (a) A person against whom a complaint of Sexual Harassment has been made shall not retaliate against or victimize a person who has complained against him/her.
- (b) A person who retaliates or victimizes a complainant of sexual harassment commits a disciplinary offence and shall be subjected to disciplinary action.

4. Support to Survivors of Sexual Harassment

- (a) The University will provide survivors of sexual harassment with psycho-social support at the Counseling Unit and primary health care at the University Hospital.
- (b) In special circumstances where the complainant is unable to face the respondent, alternative modes of presenting evidence must be availed by the investigative committee.

5. Responsibility for Reporting Sexual Harassment

- (a) Any member of the policy implementing organs who receives information about any act of sexual harassment has an obligation to report it through the established channels as prescribed in this Policy.
- (b) Victims of Sexual Harassment shall be encouraged, but not compelled, to report Sexual Harassment. The exception shall be in a situation where non-reporting may result in serious harm to the victim or others.

6. Frivolous or False Accusations

A person who makes a frivolous, malicious and vexatious or false accusation of sexual harassment against another person commits a disciplinary offence and shall be subjected to disciplinary action.

7. Presumption of innocence

A person against whom allegations or a complaint of sexual harassment has been made shall be deemed innocent until the contrary is proved.

8. Burden and standard of proof

The burden of proof shall be on the complainant. The standard of proof that sexual harassment has been committed shall be on a balance of probabilities, i.e. proof on clear and convincing evidence.

9. Confidentiality

- (a) When a complaint has been lodged, it shall be treated with utmost confidentiality.
- (b) Where it is necessary to interview a witness, the investigating Committee shall maintain strict confidentiality.
- (c) Any person handling a complaint of sexual harassment and any party to the complaint shall treat it with confidentiality except where disclosure is necessary to prevent imminent harm.

10. Failure to act on a complaint

Any person in authority who receives a complaint of sexual harassment and fails to take any pro-active steps to progress the matter in a timely and appropriate manner commits an offence and shall be subject to disciplinary action.

11. Forms of Complaints

There are two options that a victim of sexual harassment may use to lodge a complaint.

11.1 Informal complaint

- (a) An informal complaint is made to any member of the implementing bodies, including academic staff, administrative staff or students' leader.

It is made in those cases where the victim wishes for immediate action to be taken (for instance, warn the harasser or change his/her dissertation supervisor) to remedy or redress the harm without pursuing disciplinary action or seeking sanctions against the respondent . In any case, the respondent must be notified of the complaint lodged against him/her.

- (b) An informal complaint lodged with a student leader, academic or administrative staff shall be forwarded to the Gender Mainstreaming Directorate for recording. The exception shall be where the victim explicitly requests that no record should be made regarding the complaint.
- (c) An informal complaint remains on record and may be used in future as evidence of repeated unwanted conduct.

11.2 Formal Complaint

- (a) Any member of the University community who believes that he or she has been subjected to sexual harassment can lodge a written and signed complaint with the Gender mainstreaming Directorate or any academic/ administrative unit or person of authority that the victim trusts.
- (b) Any Unit of the University may initiate an official investigation if there is reason to believe that any of its members is committing sexual harassment or being harassed.
- (c) A formal complaint shall contain:
 - i. Name, address and contact details of the complainant;
 - ii. Date of the complaint;
 - iii. Nature and details of the act or conduct complained about; and
 - iv. Any other relevant details concerning the complaint.

12. Online electronic media Reporting

The University shall institute and implement an online sexual harassment reporting system.

13. Complaint boxes

The Directorate of Gender Mainstreaming shall create sexual harassment complaint boxes through which victims can report.

14. Telephone

The Directorate of Gender Mainstreaming shall set up telephone hotlines for victims to report sexual harassment complaints.

15. Anonymous complaints

Anonymous complaints shall not be admissible and shall first be investigated to determine their authenticity before any action can be taken. In any case, a complainant of sexual harassment who wishes to pursue a remedy through these procedures must be prepared to be identified to the respondent. However, the Policy does not prevent anyone from seeking counselling or advice on a confidential basis.

16. Guidelines for Documenting Sexual Harassment

A person subjected to sexual harassment should do the following:

- (a) Collect and document all accounts of the incident(s) of sexual harassment as soon as possible after occurrence. If the evidence comes in written form such as a letter, email or text message, keep it. If the evidence is based on oral statement, try to remember the actual words used and write them down as soon as possible.
- (b) For each incident, always record the time and place it happened.
- (c) Record any audios and videos and photograph any inappropriate images, displays or images that indicate possible sexual harassment.
- (d) For back up, make multiple copies of collected evidence and store them separately from the originals.
- (e) Note down the names and contacts of all witnesses and take their statements.

- (f) Seek medical services in case of physical sexual assault, rape and other related abuses.
- (g) Keep records of all health treatment that you received as a result of the sexual harassment.
- (h) Familiarize yourself with the University Policy and Regulations Against Sexual Harassment so that you follow the complaint procedures.
- (i) If unsure of how to go about doing any of this, contact the Directorate of Gender Mainstreaming to assist you gather evidence.
- (j) Communicate clearly to the individual whose conduct is offensive, unwelcome or intimidating and request that such conduct stops. The request must be direct and consistent. The victim shall avail evidence in this regard.

17. Procedures for handling reported complaints of sexual harassment.

- (a) In order to eliminate conflict of interest issues, Anti-Sexual Harassment Committees based at University units are hereby removed from the Policy. The Vice Chancellor shall instead set up a standing Roster of 100 persons from which ad hoc committees will be drawn to investigate specific reported complaints of Sexual Harassment. All 100 members shall be persons of integrity, trained and sensitized on sexual harassment, abuse and procedural matters for handling complaints as and when they arise.
- (b) All complaints of sexual harassment received by any person shall be routed through the Directorate of Gender Mainstreaming, which will notify the office of the Vice Chancellor to institute an ad hoc Committee consisting of a minimum of 3 and a maximum of 7 persons to investigate each reported complaint. The ad hoc committee will be drawn out of the broader Vice-Chancellor's Roster of 100 members. In case there is a complaint against any member of the implementing organs, he/she will recuse him/herself from the procedure.

- (c) The Roster of 100 should represent all categories of groups in the University community, that is, academic, administrative and support staff, students (undergraduate and post-graduate) as well as all hierarchical ranks within those categories. The list will be published and updated each year.
- (d) The composition of the ad hoc committee to investigate specific complaints must be carefully selected to ensure that:
 - i All members are competent people of integrity with no previous allegations of sexual harassment and abuse against them;
 - ii There are no conflict of interest issues. Members of the ad hoc Committees nominated for each complaint shall swear oaths of Confidentiality and a sign a declaration of no conflict of interest.
 - iii The total number of members is odd for majority-based decisions;
 - iv The composition of all ad hoc Committees must maintain gender equity; in any case, the extra odd number member should be female;
 - v Students' representation on ad hoc committees should be limited to complaints where students are involved either as complainants or respondents. No student should sit on an ad hoc committee investigating academic, administrative or support staff.
 - vi If the accused individual is a member of the University Central Management, a committee of the University Council shall conduct the investigative process.
- (e) The investigative work of ad hoc committees shall be facilitated by a secretariat that comprises members from the Directorates of Gender Mainstreaming and Legal Affairs. It is the duty of the secretariat to ensure that the ad hoc committees adhere to the provisions of this Policy and report any violations to the appointing authority.
- (f) The secretariat shall formulate clear and detailed procedural guidelines for ad hoc Committees to follow during their investigative proceedings.

- (g) After the ad hoc committee has completed its investigations, the chairperson of the Committee shall submit a written report to the appointing authority communicating the committee's findings and recommendations. On receiving the Committee's report, the Vice Chancellor or relevant authority shall forward it to the relevant disciplinary organs of the University or relevant entity for consideration and final determination.
- (h) Where the Investigation Committee finds that there is a case for the respondent to answer regarding the preferred charge(s), members who participated in the investigation shall not be members of the disciplinary committee.
- (i) For avoidance of doubt, in cases where the accused person is a staff member, the report shall be forwarded to the Appointments Board. Where the accused is a student, the report shall be forwarded to the Students Disciplinary Committee of the University. Where the accused is neither a staff nor a student, the report shall be forwarded to appropriate law enforcement agencies.
- (j) When handling sexual harassment complaints, the university shall ensure compliance with rules of natural justice. But it should be noted that as quasi-judicial bodies, the investigative and disciplinary entities of the University enjoy relative flexibility and freedom from the strict rules and procedure.

18. Investigations

- (a) The Investigative bodies shall carry out investigations with independence, objectivity and with due diligence and respect for the rights of both the complainant and the respondent.
- (b) Where there are allegations of conflict of interest by a member, the latter shall recuse him/herself from the Committee investigating the alleged sexual harassment.

19. Lodging of a complaint

- (a) A complaint of sexual harassment should be lodged within three years after its occurrence.

- (b) A complaint received three years after the incident(s) of sexual harassment may be accepted if there are reasonable grounds why it was not lodged within the prescribed time.
- (c) A complaint shall be investigated and a report forwarded to the appropriate organ for further action within three (3) months after lodgment.

20. Representation

During the investigation process, parties will have a right to legal representation at their expense. Where one of the parties has procured legal representation, the secretariat shall advise the other party to seek legal aid from an approved legal aid service provider. A friend or colleague may accompany a complainant or the respondent to the hearing.

21. Sexual Harassment Archive

The Directorate of Gender Mainstreaming shall keep a digital and physical record of all cases of sexual harassment investigated and or determined by university organs.

22. Protection of Personal Dignity

- (a) The personal dignity of all parties shall be respected during the hearing.
- (b) All proceedings under this Policy shall not be open to the public.

23. Service of summons

The investigation Committee shall issue summons to the respondent who shall respond in writing within seven (7) days from the date of service.

24. Failure to Respond to Summons

Where a respondent has been summoned and fails to lodge a written response within the prescribed period or fail to appear in person on the day of a scheduled hearing, the committee may proceed ex-parte.

25. Monitoring

The University Directorates of Gender Mainstreaming and Legal Affairs shall monitor compliance of decisions made in respect of all lodged complaints.

26. Penalties

- (a) A person found guilty of sexual harassment shall, depending on the gravity of the offence, be liable to any or a combination of the following:
- i. Written warning;
 - ii. Counseling;
 - iii. Restraining Order;
 - iv. Apology to the aggrieved party;
 - v. Compensation to the aggrieved party;
 - vi. Fines of up to two years' salary;
 - vii. Suspension;
 - viii. Demotion;
 - ix. Dismissal;
 - x. Criminal investigation and prosecution
- (b) A person who has been found guilty by the appropriate disciplinary organ shall be handled in accordance with the laws and policies that govern the University, the Public Service Standing orders and other national laws.
- (c) The penalties given by the relevant disciplinary organ shall not preclude the victim from seeking remedies provided by the national judicial framework.
- (d) If a party institutes criminal proceedings resulting from the criminal aspects of the allegations or civil proceedings for the civil elements, it shall not impede the University internal disciplinary mechanism from proceeding with the investigation, hearing and determination of the matter.

27. Appeals

- (a) Both the complainant and respondent have a right of appeal if dissatisfied with the decision of the internal Disciplinary organs of the University.

- (b) A person who is not satisfied with the decision of the Disciplinary organs of the University may, within fourteen (14) days of the decision, appeal against the decision to the relevant appellate organ.
- (c) The Senate Anti-Sexual Harassment Appellant Committee is hereby disbanded.
- (d) For academic, administrative and support staff, appeals shall be directed to the Staff Appeals Tribunal, while students shall appeal to the Students' Affairs Committee of the University Council. Others shall appeal to the University Council.
- (e) The Appellate Organ shall dispose of all appeals within three (3) months from the date of lodgment of the Appeal.
- (f) Any person who is dissatisfied with the decision of the University Appellate Organs shall, upon exhaustion of all internal remedies, appeal to the High Court within fourteen (14) days.

28. Suspension

The Vice-Chancellor shall have the mandate to suspend a member of the university community against whom a complaint of sexual harassment has been lodged, provided that any such suspension is carried out in conformity with the prevailing human resources policy and regulations of the university.

29. Interpretation

The provisions of this Policy shall be interpreted in accordance with the laws governing Uganda including the 1995 Uganda constitution, Employment Act, 2006, The Public Service Act and the Public Service Standing Orders, inter alia.

30. Commencement and Amendment

This Policy shall come into force on the date of approval by the University Council, that is, 5th December 2018. The policy can be amended by the

University Council as and when deemed necessary.

