CREATING A SEXUAL HARASSMENT-FREE CAMPUS

AN OPERATIONAL GUIDE FOR DEPARTMENTS
Creating a Sexual Harassment-Free Campus

An Operational Guide for Departments

The University implemented a set of ‘Sexual Harassment Policy and Procedures’ (Policy) on 1 January 2012. Under the Sex Discrimination Ordinance (SDO), sexual harassment is unlawful. The University has a legal and moral obligation to provide a working and learning environment that is free from sexual harassment.

This operational guide aims to provide Heads of Departments and departmental staff assisting Heads of Departments in management matters with information on:

A. Preventing Sexual Harassment from Occurring on Campus
   I. Your role as Head of Department (page 1)
   II. Understanding What is Sexual Harassment (page 2)
   III. Understanding CityU’s Legal Liability (page 4)
   IV. What You Can Do to Raise Understanding and Awareness of Staff and Students on Sexual Harassment (page 6)

B. Dealing with Sexual Harassment Enquiries and Complaints
   I. Understanding the University’s Provisions for Dealing with Enquiries and Complaints (page 7)
   II. What to Do If You are Asked to Help (page 8)
   III. How to Contact Us for Advice and Help (page 9)

All information provided herewith is readily available on the website of the Committee Against Sexual Harassment (CASH) appointed by the President in accordance with the Policy to provide guidance to staff and students.

The CASH website (http://www6.cityu.edu.hk/cash) is accessible via CityU homepage under “Useful Links”: “Creating a Harmonious Campus”.

Issued by Committee Against Sexual Harassment (CASH)

September 2016
A. Guide on Preventing Sexual Harassment from Occurring on Campus

<table>
<thead>
<tr>
<th>I. Your Role as Head of Department</th>
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<tbody>
<tr>
<td>The following are stated in the University’s Sexual Harassment Policy and Procedures (Policy):</td>
<td>• Policy of CityU [accessible via the CASH website (<a href="http://www6.cityu.edu.hk">http://www6.cityu.edu.hk</a>)]</td>
</tr>
<tr>
<td>Clause 6.5 Heads of Departments and Line Managers have an important contribution to make in ensuring that the culture of the workplace or learning environment actively discourages sexual harassment.</td>
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<tr>
<td>Clause 6.6 It is vital that all Heads of Departments and Line Managers should be familiarized with the University’s Sexual Harassment Policy and Procedures and take practical steps in their respective areas to prevent harassment before it starts.</td>
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<tr>
<td>Clause 6.7 Heads of Departments and Line Managers have a personal and legal obligation to comply with the Sex Discrimination Ordinance and to ‘take all reasonable steps’ to prevent sexual harassment from occurring in the area for which they are responsible. Failure to do so may result in the University being vicariously liable for allowing sexual harassment to take place.</td>
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II. Understanding What is Sexual Harassment

- The legal definition of “sexual harassment” includes the following situations:

  a. any person
     i) makes unwelcome sexual advances, or unwelcome request for sexual favors, to another person; or
     ii) engages in other unwelcome conduct of a sexual nature in relation to that other person; in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that that other person would be offended, humiliated or intimidated; or

  b. any person, either alone or together with other persons, engages in a conduct of a sexual nature which creates a hostile or intimidating environment for another person.

The SDO applies to both men and women. Under the SDO, it is unlawful to sexually harass persons of the opposite sex, as well as, of the same-sex.

- What is not sexual harassment?

  Interaction of a sexual nature, flirtation, attraction or friendship which is invited, mutual, consensual and reciprocated.

- Forms of sexual harassment:

  Physical, visual, verbal or non-verbal conduct of a sexual nature which is uninvited and unwelcome.

- Single incident counts:

  The unwelcome behaviour needs not be repeated or continuous to amount to sexual harassment.

- What is sexually hostile or intimidating environment for staff and students?

  Any unwelcome conduct of a sexual nature that interferes with the performance or affects the enjoyment of staff in their working environment or students in their learning environment. The behavior does not need to be directly or consciously targeted at an individual staff/student, e.g. display of explicit or pornographic materials, sexual banter, crude conversation, sexually offensive jokes or activities, etc.

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<tr>
<td>• Sex Discrimination Ordinance (SDO)</td>
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<td>• Policy of CityU</td>
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<td>• CASH website</td>
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<tr>
<td>• Equal Opportunities Commission (EOC) website (accessible via CASH website)</td>
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### Examples of sexual harassment

- Uninvited physical contact or gestures
- Unwelcome requests for sex
- Sexual comments or jokes
- Intrusive questions or insinuations of a sexual nature about a person’s private life
- Displays of offensive or pornographic material such as posters, pinups, cartoons, graffiti or calendars
- Unwanted invitations
- Offensive communications of a sexual nature (letters, phone calls, faxes, e-mail messages, etc.)
- Staring or leering at a person or at parts of his/her body
- Unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against him/her
- Touching or fiddling with a person’s clothing e.g. lifting up skirts or shirts, or putting hands in a person’s pocket

### Examples of sexually hostile or intimidating environment

- Anyone uses sexually suggestive cartoons in teaching a subject not related to sex.
- A group of students hanging out somewhere on campus and rate female students who are playing/ chatting/ staying there. As a result, some of the female students avoid staying in the area.
- In the staff room where there are both female and male colleagues, some colleagues display nude pictures as screen savers on the computer; or some like to exchange obscene jokes with each other in the presence of other colleagues of the opposite sex.
- Staff members make sexual jokes or discuss their sex lives within earshot of other staff/ students on campus.
- A group of students hijack classroom discussion and turn it to sexual topics. Students of the opposite sex feel offended and do not want to join the discussion.

- EOC website
- CASH website
### III. Understanding CityU’s Legal Liability

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<th>Liability of the individual (e.g. staff, students and others)</th>
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<td>Sexual harassment, which is an unlawful act, would entail civil liability. Some behaviour (such as indecent assault, stalking, crank calling, etc.) would also bear criminal consequences at the same time. Students and staff, voluntary helpers, contract workers/ service providers/ agents of a school are personally liable under the law for their own acts of sexual harassment. Personal liability may also be incurred if a person presses/ instructs someone to sexually harass another, or knowingly aids another in sexual harassment (e.g. joining someone in telling obscene jokes).</td>
<td>• Adapted from EOC website</td>
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<tr>
<td>Liability of CityU (Department) as an employer</td>
<td>• Adapted from EOC website</td>
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<td>Schools must take “reasonably practicable steps” to prevent sexual harassment; otherwise, they might be held vicariously liable for the unlawful acts of sexual harassment committed by employees in the course of their employment, even if the schools are not aware of the sexual harassment incidents.</td>
<td>• Adapted from EOC website</td>
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<tr>
<td>Liability of CityU in case a student commits sexual harassment</td>
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<td>In general, CityU (Department) would not be held vicariously liable for unlawful acts committed by students since they are not employees or agents of the school. Nevertheless, CityU (Department) may incur direct liability under some circumstances. For example, if a complaint of sexual harassment is received alleging student(s) organizing or participating in an extra-curricular activity has/have committed an act of sexual harassment, but CityU (Department) takes no remedial actions and continues to allow the students to engage in the alleged unlawful activity held on CityU campus, arguably CityU (Department), together with these students, are engaging in a conduct which creates a sexually hostile or intimidating environment for other students. It is a form of sexual harassment prohibited under the SDO.</td>
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Liability of CityU if students are harassed by an external body (e.g. coaches in extra-curricular activities)

If the coach is hired or arranged to be hired by CityU (Department) to carry out the extra-curricular activity as an “agent”, CityU (Department) would become a “principal” under the circumstances. If no reasonably practicable steps (e.g. notify the coach either in writing or verbally that sexual harassment is prohibited and would not be tolerated) have been taken to prevent sexual harassment from occurring, CityU (Department) might still be vicariously liable for the unlawful act as the principal. In this connection, once the relationship of agent and principal is established, CityU (Department) should take reasonably practicable steps to prevent sexual harassment from occurring.

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<th>IV. What You Can Do to Raise Understanding and Awareness of Staff and Students on Sexual Harassment</th>
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<td>Provide the Policy, the handling procedures of complaints and the related disciplinary actions on sexual harassment to new staff as a standard part of induction/orientation;</td>
<td>• Adapted from EOC website</td>
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<td>Regularly alert staff and students to the Policy, e.g. by email circulation and/or discussion/reinforcement at staff meetings, and CityU’s standpoint that it will not condone any act of sexual harassment committed by staff and students;</td>
<td>• CASH website</td>
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<tr>
<td>Display posters, notices and educational and promotional materials provided by CASH to disseminate related information; and (please contact CASH Secretariat at tel no. 3442 9026 if in need of more promotional materials)</td>
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<td>Conduct awareness raising sessions for staff and students on sexual harassment issues and encourage departmental staff assisting in handling sexual harassment complaints to receive appropriate training organised from time to time by the Human Resources Office and the EOC to enable sensitive treatment of such cases.</td>
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B. Guide on Dealing with Sexual Harassment Enquiries and Complaints

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<td>The following are provided in the Policy:</td>
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<td><strong>Clause 3.2</strong> A complaint can be classified as either formal or informal, depending on whether an investigation is conducted into the case.</td>
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<td><strong>Clause 3.3</strong> In general, it may be appropriate for minor and single incidents (but not more serious and repeated acts of sexual harassment) to be dealt with informally. The main objective of an informal complaint is to stop the alleged harassment at the earliest possible stage. When the complainant requests an investigation into his/her allegation, the complaint should be dealt with in a formal manner according to prescribed procedures.</td>
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<td><strong>Clause 3.4</strong> Depending on the identity (staff or student) of the alleged harasser, complaints of sexual harassment should be lodged with:</td>
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<td>- the Director of Human Resources (or nominee) when the alleged harasser is a staff member;</td>
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<td>- the Dean of Students (or nominee) when the alleged harasser is a student at or below undergraduate level; or</td>
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<tr>
<td>- the Dean of Graduate Studies (or nominee) when the alleged harasser is a student at postgraduate level.</td>
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<tr>
<td><strong>Clause 4.1 (vi)</strong> Subject to the requirements of the Personal Data (Privacy) Ordinance, all complaints of sexual harassment will be received and handled in a confidential manner and any information relating to a complaint of sexual harassment will only be disclosed on a strict need-to-know basis.</td>
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<tr>
<td><strong>Clause 5.1</strong> The procedures for handling informal and formal sexual harassment complaints are detailed in Appendices II (a), (b) and III (a), (b) [of the Policy] respectively.</td>
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## II. What to Do if You are Asked to Help

In case you are approached by a staff or student for help and advice on how to deal with a sexual harassment concern, your response is important.

- Take every allegation seriously even if the incident doesn’t initially seem like sexual harassment to you.
- Try to put the complainant at ease.
- Gather the facts. Learn the “who, what, when, where, why and how”.
- Assure the complainant that confidentiality will be kept, and all information and related records will be disclosed only to the relevant parties on a need-to-know basis.
- Take prompt action. Tell the complainant that he/she has the right to decide how he/she would like to see the situation resolved.
- Encourage the complainant to seek guidance and help from CASH. *(If the complainant only sees harassment occurring but is not directly involved in the incident, he/she can also seek guidance/help from CASH.)*
- If needed, encourage the complainant to seek psychological counselling service provided by the Student Development Services (SDS) or the Professional Personal Consultation Service (PPCS) provided by the Human Resources Office (HRO) as appropriate.

### Source of Information

- CASH booklet on “Creating a Sexual Harassment-Free Campus”
- CASH website
- SDS website
- HRO website
### III. How to Contact Us for Advice and Help

Whenever necessary, you are welcome to seek advice through the following channels as soon as possible about how to handle a sexual harassment enquiry or complaint that has been brought to your attention:

- **CASH hotline:** 3442 9000  
  (Monday to Friday, 09:00 – 17:00)

- **CASH email:** cash@cityu.edu.hk

- Director of Human Resources if the alleged harasser is a staff member

- Dean of Students if the alleged harasser is an undergraduate student

- Dean of Graduate Studies if the alleged harasser is a postgraduate student

### Source of Information

- CASH website
- Policy of CityU