1. Preamble

1.1 Under the Sex Discrimination Ordinance (SDO), sexual harassment in the education and employment fields is unlawful. The University has a legal and moral obligation to provide a working and learning environment that is free from sexual harassment.

1.2 Besides being unlawful, sexual harassment is an important ethical issue for the whole University because of the negative impact it has on the physical and psychological well-being of staff and students. It impairs efforts made to foster a respectful and productive working and learning environment. Sexual harassment often results in communication breakdown, conflict, absenteeism, withdrawal and resignation. Conversely, the prevention and elimination of sexual harassment in the University encourages high productivity in work, effective learning, regular attendance, high retention rate, respectful communication and trust, and the fulfillment of the University’s legal responsibilities and obligations.

1.3 All members of the University community, whether staff or students, are entitled to a working and learning environment which is professional and which promotes respect and regard for the rights and feelings of all. Sexual harassment violates the rights, dignity and integrity of the individual and undermines the environment necessary for the advancement of learning and will not be tolerated by the University. The University is committed to preventing and eliminating sexual harassment and will not condone any act of sexual harassment committed by its staff members or students.

1.4 Sexual harassment is a breach to staff and student discipline and shall be subject to disciplinary action. All sexual harassment complaints should be thoroughly and fairly handled and investigated without delay in accordance with the Procedures for Handling Sexual Harassment Complaints as detailed in Appendices II and III.

1.5 Whatever form it takes, the University will not permit any staff member or student to harass others with whom he/she has business and/or academic interactions including, but not limited to, other staff members, students and prospective students, or permit any outsider to harass its staff members or students. This is true, not only in the workplace or on campus, but during business/school trips, business-related social events organised or sponsored by the University and at any other venues.

1.6 The University will keep the Sexual Harassment Policy and Procedures under constant review.

2. Definition of Sexual Harassment

2.1 Following the Sex Discrimination Ordinance (SDO):

A person (howsoever described) sexually harasses another person if:
• the person,
  (i) makes an unwelcome\(^1\) sexual advance, or an unwelcome request for sexual favours, to that person; or
  (ii) engages in other unwelcome conduct of a sexual nature\(^2\) in relation to that person;

  in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person would be offended, humiliated or intimidated; or

• the person, alone or together with other persons, engages in conduct of a sexual nature which creates a hostile or intimidating environment for that person.

2.2 Under the SDO, sexual harassment covers sexual harassment of both men and women.

2.3 In the field of employment, it is unlawful for an employee to sexually harass a fellow employee who may include a contract worker, a commission agent or any person who is seeking to be employed by the University (s.23 of the SDO).

2.4 For educational establishments, it is unlawful for any staff member of the University to sexually harass a person who is a student or a prospective student of the University; for a student or prospective student of the University to sexually harass staff member of the University; and for any student of the University to sexually harass any fellow student or a person who is a prospective student of the University (s.39 of the SDO).

2.5 A person who knowingly aids another person to do an act of sexual harassment shall be treated as he/she is doing an act of the like description (s.47 of the SDO). It is unlawful for a person to instruct, to procure, or attempt to procure, another person to sexually harass a third person (s.44 of the SDO). It is also unlawful for a person to induce or attempt to induce another person to sexually harass a third person by providing or offering to provide that person with any benefit, or subjecting or threatening to subject that person to any detriment (s.45 of the SDO).

2.6 Examples of sexual harassment include:

  • Unwelcome sexual advances – e.g. leering and lewd gestures, touching, grabbing or deliberately brushing against another person;

  • Unwelcome requests for sexual favours – e.g. suggestions that sexual co-operation or the toleration of sexual advances may further a person’s career, or affect employment conditions or academic results;

\(^1\) In general terms, “unwelcome” behaviour is behaviour that is uninvited and unwanted by the recipient(s) of the behaviour.

\(^2\) “Conduct of sexual nature” includes making a statement of a sexual nature to another person, or in the presence of that person, whether the statement is made orally or in writing [s.2(7) of the SDO].
- Unwelcome verbal, non-verbal or physical conduct of a sexual nature – e.g. sexually derogatory or stereotypical remarks, persistent questioning about a person’s sex life;

- Conduct of a sexual nature that creates a hostile or intimidating environment – e.g. sexual or obscene jokes around the workplace/classrooms and campus/halls of residence; displaying sexist or other sexually offensive materials; offensive communications of a sexual nature (letters, phone calls, faxes, e-mails and text messages, etc.). Materials used for educational purposes are not examples of sexual harassment.

2.7 Unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature constitute sexual harassment in the University when any aspect of an individual’s employment or educational experience is made conditional on submission to such conduct:

- Aspects of employment include but are not limited to hiring, retention, personnel review, pay review, transfer, promotion, termination, re-assignment, salary determination, fringe benefits, work load, opportunities, training and staff development, and working conditions.

- Aspects of educational experience include but are not limited to admission to a course or class, grades, letters of recommendation, homework, publications, honours, research opportunities, scholarships, housing, grants, employment opportunities, use of facilities, probation, termination, and classroom conditions.

2.8 Sexual harassment in employment includes the following situations:

- sexually harassing a person who is employed or seeking to be employed either by the employer or by someone else within the same organisation;

- sexually harassing a contract worker or a commission agent;

- sexually harassing a person seeking an authorisation or qualification; and

- sexually harassing a person seeking or undergoing training.

2.9 A series of incidents may constitute sexual harassment. However, depending on the circumstances, it is not necessary for there to be a series of incidents. One incident may be sufficient to constitute sexual harassment.

2.10 A person may be the victim of a hostile environment where he or she is harassed in a pattern of incidents that may not be, in and of themselves, offensive, but when considered together amount to sexual harassment.

2.11 In determining whether certain conduct constitutes sexual harassment, the entire record and the totality of the circumstances will be considered.
3. Sexual Harassment Complaints

3.1 In an effort to avoid any misunderstandings and foster open communication in the workplace and on campus, staff members or students should, but are not required to, communicate their discomfort to those whom they feel are engaging in inappropriate conduct. Staff members or students may seek guidance from the Committee Against Sexual Harassment (CASH) on issues concerning sexual harassment. Enquiries can be directed to the CASH enquiry line at 3442 9000 (during 9:00 a.m. to 5:00 p.m. from Monday to Friday) or e-mail at cash@cityu.edu.hk. Staff members and students may also lodge a complaint with designated Members of CASH if they think that they have been sexually harassed. Information on CASH is detailed at Appendix I.

3.2 A sexual harassment complaint can be classified as either formal or informal, depending on whether an investigation is conducted into the case. The two approaches are both valid, and the exact approach to be adopted depends on the wish of the complainant.

3.3 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.

3.4 Depending on the identity (staff or student) of the alleged harasser, complaints of sexual harassment should be lodged with:

- the Director of Human Resources (or nominee) when the alleged harasser is a staff member;
- the Dean of Students (or nominee) when the alleged harasser is a student at or below undergraduate level; or
- the Dean of Graduate Studies (or nominee) when the alleged harasser is a student at postgraduate level.

3.5 When the Director of Human Resources, the Dean of Students, the Dean of Graduate Studies, the Head of Department or any other person comes into knowledge of a sexual harassment complaint, he/she should direct the case to the appropriate complaint recipient.

3.6 The recipient of the complaint (the Director of Human Resources, the Dean of Students, or the Dean of Graduate Studies) shall become the Subject Officer of the case. He/She may also nominate a Member of CASH as the Subject Officer. In appropriate circumstances or at the request of the complainant, the gender of the delegate should be taken into consideration.

3.7 The Subject Officer shall form an Investigation Panel (Panel) to investigate formal complaints. The Panel shall comprise the Subject Officer as the Chairperson and at least two more Members from CASH. In appropriate circumstances and in consultation with the Chairperson of CASH, the Subject Officer has the authority to appoint other staff members, instead of Members from CASH, to serve as Members of the Panel. A relevant student representative or other persons may be co-opted on the Panel as decided by the Subject Officer in consultation with the Chairperson of CASH. A fair distribution of members in both genders should be observed as far as practicable.
3.8 The complainant should lodge either a written or an oral complaint as soon as possible but in no case exceeding twelve months from the date the act of harassment occurs; the lapse of time may weaken a complainant’s case and render the subsequent investigation difficult to carry out.

3.9 The Sexual Harassment Policy and Procedures are without prejudice to all statutory rights\(^3\) of the complainants.

3.10 In the event that the complainant chooses to report the case to the statutory bodies, the University shall suspend investigation until there is a conclusion of the relevant proceedings.

4. **Principles for Handling Sexual Harassment Complaints**

4.1 General Principles

(i) All complaints must be handled promptly, seriously, objectively and without any bias and with a common sense approach.

(ii) All complaints should be assumed to be made in good faith.

(iii) Care must be taken to ensure that the process of bringing a complaint does not unnecessarily expose the complainant to further distress and humiliation.

(iv) Both the complainant and the alleged harasser may be accompanied by another member (i.e. staff or student) of the University, if they so wish, at all meetings.

(v) Designated persons handling the complaints or the investigations should have the relevant training and experience in related issues. They should not be from the same department/unit as the complainant/alleged harasser and should not have any direct working or educational relationship with the complainant/alleged harasser.

(vi) 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. However, investigation of such complaints will in most cases require disclosure to the accused and to other witnesses in order to gather pertinent facts. It gives assurance to the individuals involved in the complaint that management appreciates the sensitive nature of sexual harassment and details of the complaint will not be disclosed to unrelated individuals. Both the victim-complainant\(^4\) and the alleged harasser should be informed of the outcome of the investigation.

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\(^3\) The complainant may also seek advice or lodge a complaint of sexual harassment with the Equal Opportunities Commission (EOC). A complaint of sexual harassment should be lodged within twelve months from the date the act of harassment was done, failing which the EOC may decide not to conduct, or to discontinue, an investigation into the act.

\(^4\) Victim-complainant means a complainant who is a victim of the alleged sexual harassment and has a legitimate and direct personal interest in receiving information relating to the disciplinary process in question, including not only the outcome of a complaint but also the penalty imposed.
(vii) The complainant and the witnesses should be protected against victimisation\(^5\) for making or being involved in the complaint. No retaliatory measure by anyone will be allowed against a staff member or a student who reports harassment or cooperates in a harassment investigation.

(viii) As a general rule, a complainant should normally not be removed from his/her usual duties/studies or treated in an unusual manner whilst awaiting the outcome of the complaint as this may constitute less favourable treatment to the complainant which is not justified and may constitute a ground for complaint of victimisation. There may however be cases where it is difficult to keep the parties together until the outcome is known, for instance, when investigation is suspended pending consideration by the statutory bodies. Under such circumstances, Heads of Departments should take appropriate measures to deal with the situation but the wishes of the complainant and the alleged harasser have to be taken into account.

4.2 Guidelines for Investigation of Formal Complaints

(i) A person who is the subject of a formal complaint must be informed of the allegations against him/her.

(ii) A person who is the subject of a formal complaint must be given the opportunity to respond to the allegations and raise any matters in his/her own defence.

(iii) The allegations should be properly investigated, all parties being heard and relevant submission considered.

(iv) Irrelevant matters should not be taken into account.

(v) A person who makes an allegation cannot be involved in determining it.

(vi) Designated persons charged with handling a formal complaint must not pre-judge the matter.

(vii) In conducting the investigation, full accounts from all parties of the matter must be obtained before the investigating party says, implies or does anything that could be perceived as judging the matter.

(viii) Until a formal complaint has been investigated and a decision made, the claims of the person who believes he/she has been harassed are allegations only.

(ix) All parties to the matter must be kept informed throughout the process.

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\(^5\) Under the SDO, ‘victimisation’ is an unlawful act. According to the Code of Practice on Employment under the Sex Discrimination Ordinance, ‘victimisation’ arises where a person (the discriminator) treats another person (the person victimised) less favourably than persons in comparable circumstances because the person victimised or a third person has done or intends to do, or is suspected to have done or to intend to do, the following:

- bringing proceedings against the discriminator or any other person under the SDO;
- giving evidence or information in connection with proceedings brought by any person against the discriminator or any other person under the SDO;
- otherwise doing anything under or by reference to the SDO in relation to the discriminator or any other person; or
- alleging that the discriminator or any other person has committed an act which is unlawful under the SDO.
(x) All relevant parties must have access to information about the range of resolution outcomes available, e.g. whether the case is to be dismissed or what form of disciplinary action is recommended, where appropriate.

(xi) Outcomes should be consistent and fit the breach of policy that has occurred.

5. Procedures for Handling Informal and Formal Sexual Harassment Complaints

5.1 The procedures for handling informal and formal sexual harassment complaints are detailed in Appendices II (a), (b) and III (a), (b) respectively.

6. Publicity and Preventive Measures

6.1 The University’s Sexual Harassment Policy and Procedures should be announced to members of the University community and be incorporated in relevant staff and student publications and/or webpages appropriately.

6.2 Publicity and education programmes in the form of briefing sessions or workshops should be organized for staff and students to enhance their awareness of the issue. Available resources should also be made known to all staff and students to enable them to seek appropriate guidance and counselling when in need.

6.3 Publicity materials should be distributed to departments and units for display or circulation. Such materials could be used for training programmes as well as for distribution to new appointees and students during induction or orientation programmes.

6.4 Promotional and educational activities should be conducted as an on-going exercise to introduce and reinforce the policy.

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.

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.

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.

Revised December 2015
Appendix I

CITY UNIVERSITY OF HONG KONG

Committee Against Sexual Harassment (CASH)

1. The Committee Against Sexual Harassment (CASH) is appointed by the President, comprising academic and administrative and services staff members in both genders from different Colleges, Schools and Departments and Administrative Units who are familiar with the University’s Sexual Harassment Policy and Procedures, have knowledge of related legislation, are sensitive to gender issues and possess relevant training and experience in related issues.

2. The composition of CASH is as follows:

<table>
<thead>
<tr>
<th>Role</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chairperson</td>
<td>A senior academic or administrative and services staff</td>
</tr>
<tr>
<td>Ex-officio Members</td>
<td>Director of Human Resources, Dean of Students, Dean of Graduate Studies</td>
</tr>
<tr>
<td>(also as designated recipients of sexual harassment complaints depending on the identity of the alleged harasser)</td>
<td></td>
</tr>
<tr>
<td>Members</td>
<td>Not more than ten academic or administrative and services staff including:</td>
</tr>
<tr>
<td></td>
<td>(a) one nominee of each of the Ex-officio Members,</td>
</tr>
<tr>
<td></td>
<td>(b) other nominees by the Provost,</td>
</tr>
<tr>
<td></td>
<td>Vice-Presidents or equivalent and Deans</td>
</tr>
<tr>
<td>Secretary</td>
<td>An administrative and services staff</td>
</tr>
</tbody>
</table>

3. The Chairperson and Members, other than the Ex-officio Members, will be appointed to serve initially for a term of two years. Subsequent appointments will be on staggered terms. Members may be appointed to serve as Subject Officer or a member of an Investigation Panel to investigate formal complaints on sexual harassment.

4. The terms of reference of CASH are as follows:

(a) To provide support to the promotion of awareness of the Sexual Harassment Policy and Procedures in the University.

(b) To identify and recommend changes to policies/practices on sexual harassment that may be inconsistent with the legislation.

(c) To inform staff and students of available options, and their right to lodge complaints on sexual harassment internally or externally with the Equal Opportunities Commission, the police, and the courts.
Appendix II (a)

CITY UNIVERSITY OF HONG KONG

Procedures for Handling
Informal Sexual Harassment Complaints

1. A complaint will be handled informally when a complainant prefers that informal actions be taken to stop the harassment at the earliest possible stage instead of requesting an investigation into his/her case. In general, informal action may be suitable for minor and single incidents of sexual harassment but not for more serious and repeated acts of sexual harassment.

2. One of the following designated complaint recipients shall become the Subject Officer of the case:

   (a) the Director of Human Resources (or nominee) when the alleged harasser is a staff member; or

   (b) the Dean of Students (or nominee) when the alleged harasser is a student at or below undergraduate level; or

   (c) the Dean of Graduate Studies (or nominee) when the alleged harasser is a student at postgraduate level.

   The nominee shall be chosen from Members of the Committee Against Sexual Harassment (CASH). In appropriate circumstances or at the request of the complainant, the gender of the delegated Subject Officer should be taken into consideration. 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.

3. On receiving an informal complaint of sexual harassment, the Subject Officer should take preventive or remedial measures to address the situation as soon as possible and no later than two weeks after receiving a complaint, e.g. to communicate with the alleged harasser on behalf of the complainant, pointing out that his/her behaviour is deemed unwelcome and should be stopped. Such informal action can be particularly useful when the party concerned does not realize that certain behaviour is offensive to the recipient.

4. The complainant shall write to the Subject Officer to withdraw the complaint within one month if the complaint can be resolved informally. Should the complainant fail to make a written withdrawal of the complaint within one month, the Subject Officer shall write to the complainant to confirm the resolution. A flow chart showing the process is at the Appendix II (b).

5. On conclusion of the case, the Subject Officer shall report to the Chairperson of CASH in writing, giving a brief account of the complaint and measures taken to resolve the complaint. The Chairperson of CASH, as assisted by the Secretary of CASH, shall maintain records of complaints or cases handled for statistical purposes and report to the President on an annual basis.
6. If the complainant requests an investigation into his/her allegation, the complaint should be dealt with in a formal manner according to the procedures laid down in Appendix III (a).
Appendix II (b)

Flow Chart on Handling Informal Sexual Harassment Complaints

Informal complaint received by Subject Officer

As soon as possible and no later than 2 weeks

Take preventive or remedial measures, e.g. convey the message to the alleged harasser that his/her acts are unwelcome and should be stopped

Yes

Case resolved?

Within 1 month

Complainant to withdraw complaint / Subject Officer to write to complainant to confirm the resolution

No

and complainant requests an investigation

Procedures for handling formal sexual harassment complaint

Subject Officer to report the case to the Chairperson of CASH

Note

The Subject Officer will be
- the Director of Human Resources (or nominee) when the alleged harasser is a staff member; or
- the Dean of Students (or nominee) when the alleged harasser is a student at or below undergraduate level; or
- the Dean of Graduate Studies (or nominee) when the alleged harasser is a student at postgraduate level.
Procedures for Handling
Formal Sexual Harassment Complaints

1. One of the following designated complaint recipients shall become the Subject Officer of the case:

   (a) the Director of Human Resources (or nominee) when the alleged harasser is a staff member; or

   (b) the Dean of Students (or nominee) when the alleged harasser is a student at or below undergraduate level; or

   (c) the Dean of Graduate Studies (or nominee) when the alleged harasser is a student at postgraduate level.

The nominee shall be chosen from Members of the Committee Against Sexual Harassment (CASH). In appropriate circumstances or at the request of the complainant, the gender of the delegated Subject Officer should be taken into consideration.

2. On receiving the sexual harassment complaint, the Subject Officer shall acknowledge a written complaint in writing within two weeks of receipt. In case of an oral complaint, the Subject Officer shall record it in writing and confirm the record with the complainant as soon as possible, and in any case within two weeks.

3. The Subject Officer shall report the complaint to the Chairperson of CASH (with a copy to the President).

4. If, upon receipt of the complaint or at any time during the course of investigation, the Subject Officer discovers that the complaint is of a criminal nature, e.g. the substance of the complaint may amount to an indecent assault, the complainant will be informed of his/her right to report to the Police. Investigation should be suspended once referral has been made to the Police and the Subject Officer should inform the President and the Chairperson of CASH immediately.

5. The Subject Officer should maintain case files and records of the complaints received to facilitate the monitoring of progress in processing the complaints. All such files and records should be accorded confidential status and passed to the Secretary of CASH on completion of the procedures for retention.

6. The Subject Officer shall form an Investigation Panel (Panel) to carry out investigations. The Panel shall comprise the Subject Officer or his or her nominee as the Chairperson and at least two more Members chosen from CASH by the Subject Officer. In appropriate circumstances and in consultation with the Chairperson of CASH, the Subject Officer has the authority to appoint other staff members, instead of Members from CASH, to serve as Members of the Panel. A relevant student representative or other persons may be co-opted on the Panel as decided by the Subject Officer in consultation with the Chairperson of CASH. The Subject Officer shall nominate a person to be the Secretary of the Investigation Panel. A fair distribution of members in both genders should be observed as far as practicable. No members of a Panel shall be from the same department/unit as the complainant/alleged harasser or have any direct working or educational relationship with the complainant/alleged harasser.
7. The **Investigation Panel** shall carry out the investigations as soon as practicable in accordance with the principles set out in the Sexual Harassment Policy and Procedures and notify the alleged harasser of the carrying out of the investigations. A set of Standard Terms of Reference of **Investigation Panel** is provided in the Annex which the **Investigation Panel** may consider to adopt or amend as appropriate. The investigation should include the following:

(a) *Interviewing the complainant*

The nature of the details of the complaint should be ascertained. To facilitate subsequent investigations, a written statement should be taken which should be signed and confirmed as correct by the complainant.

(b) *Interviewing the alleged harasser*

Details of the allegations should be given in writing to the alleged harasser who should then be interviewed to give explanations or comments. The interview should be recorded in writing and signed and confirmed as correct by the alleged harasser.

(c) *Provisions during the interview*

- Given that cases of sexual harassment involve issues of a sensitive and embarrassing nature, both the complainant and the alleged harasser may need help and support during the interview. Under such circumstances, both parties may be accompanied by another person\(^6\), who is a member (i.e. staff or student) of the University, throughout the proceedings.

- Reasonable measures should be taken to avoid the complainant and the alleged harasser to appear in the same meeting as far as practicable.

- Both parties have the right to give evidence in their preferred language and an interpreter will be provided by the **Subject Officer**.

- The Secretary of the **Investigation Panel** shall maintain a record of proceedings as the Chairperson considers appropriate.

(d) *Interviewing witnesses*

- The **Investigation Panel** shall have the discretion to determine the number of witnesses it will interview (if any).

- All interviews should be recorded in writing and, where practicable, signed and confirmed as correct by each witness.

(e) *Provision of information materials*

- The **Investigation Panel** shall determine the information, documents and other materials, including the written statements collected and records of interview conducted by the **Investigation Panel**, to be passed on to the complainant and alleged harasser to facilitate the investigation.

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\(^6\) The accompanying person is to provide advice and moral support to the staff/student member concerned. He/she shall have no right to address the Investigation Panel. Notes-taking for personal use may be allowed in appropriate circumstances as determined by the Investigation Panel.
• The complainant, alleged harasser and witnesses should be made aware that the information they provide to the *Investigation Panel* in writing or during interviews may be provided to the complainant and the alleged harasser.

• In making its findings and decisions, the *Investigation Panel* can take into account its interview record even if such interview record is, for any reason, not signed and confirmed as correct by the complainant, alleged harasser or witnesses.

\(f\) **Findings**

• Both parties must be given an opportunity to present their cases in detail and to comment on the allegations and responses made by the other party. The *Investigation Panel* will analyse the information and ascertain the facts of the case.

• The standard of proof required should be based on the balance of probabilities and commensurate with the gravity of the breach of standards of behaviour.

• In determining whether certain conduct constitutes sexual harassment, the entire record and the totality of the circumstances shall be considered.

8. The investigation of a complaint by the *Investigation Panel* shall normally be completed and a reply issued to the complainant within three months after receipt of the complaint. If an investigation cannot be completed within three months, the *Investigation Panel* will send an interim reply to the complainant and the alleged harasser, informing them of the progress of the investigation. Any investigation which cannot be completed within four months should be drawn to the attention of the President and the *Chairperson of CASH*.

9. If at any time during the investigation, the *Investigation Panel* discovers that the same complaint has been lodged with any statutory bodies or police, internal investigation shall be suspended. The *Subject Officer* should inform the President and the *Chairperson of CASH*. Internal investigation may resume upon conclusion of the external proceedings.

10. It is the responsibility of the *Investigation Panel* to obtain and scrutinize all relevant information concerning the case to see whether an act of sexual harassment might have been committed.

11. The investigation can be discontinued if the *Investigation Panel* is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking substance; or if the complainant does not desire the investigation be conducted or continued. The complainant and the alleged harasser should be advised of the reasons for that decision.

12. The *Investigation Panel* shall, upon the conclusion of the investigations and thereafter as soon as practicable, determine and conclude whether the complaint is established.

13. Both the complainant and the alleged harasser should be informed by the *Investigation Panel* whether the complaint has been established and the proposed action to be taken. If the complaint is not established, the reasons and the outcome of the investigation should be given to both the complainant and the alleged harasser.

14. If the complaint is established, the *Investigation Panel* shall also make recommendation on whether consideration should be given to instituting disciplinary action against the alleged harasser and have the option to make recommendation on the penalties to be imposed when considered appropriate. Both the complainant and the alleged harasser should be informed of whether the complaint is established. In cases where the complainant is a victim of wrongdoing committed by the alleged harasser, both the victim-
complainant and the alleged harasser should be informed of whether disciplinary action will be recommended against the alleged harasser and the penalties recommended, if any. Both the complainant and the alleged harasser should be given a period of one week to respond. The response, if any, shall be considered by the Investigation Panel before it reports the findings and recommendations to the relevant disciplinary authority for consideration.

15. In the event that the complaint has been established, the Investigation Panel shall write to the relevant disciplinary authority in accordance with the University’s Regulations Governing Staff Discipline or Code of Student Conduct and Disciplinary Procedure as appropriate, with copies to the President and the Chairperson of CASH, providing a full report on the investigation and the outcome.

16. Upon receipt of the report and recommendations of the Investigation Panel, the disciplinary authority concerned shall decide whether to adopt the recommendation to take disciplinary action against the harasser. The Regulations Governing Staff Discipline or Code of Student Conduct and Disciplinary Procedure, as appropriate, (including the types of disciplinary action against the person in breach of disciplinary rules) shall apply.

17. Both the victim-complainant and the alleged harasser should be informed by the disciplinary authority concerned whether the complaint is established, and whether disciplinary action will be taken and the penalties imposed.

18. If the harasser wants to appeal against the recommendations of the Investigation Panel and/or the decision of the disciplinary authority concerned, the appeal should be lodged with the relevant appeal authority under the Regulations Governing Staff Discipline or Code of Student Conduct and Disciplinary Procedure as appropriate (and, for the avoidance of doubt, the conditions in relation to the grounds of appeal such as new evidence or that the disciplinary procedures were not correctly followed shall apply). The appeal should be submitted in writing within the time limit specified in the Regulations Governing Staff Discipline or Code of Student Conduct and Disciplinary Procedure as appropriate, with full and complete details of the ground for the appeal.

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7 Victim-complainant means a complainant who is a victim of the alleged sexual harassment and has a legitimate and direct personal interest in receiving information relating to the disciplinary process in question, including not only the outcome of a complaint but also the penalty imposed.

8 According to the Regulations Governing Staff Discipline, the respective Dean (for Colleges)/Line Manager at Vice-President or equivalent level is the Responsible Authority to instigate final disciplinary action. He/She may decide to take one or more of the courses of action set out below which are not meant to be exhaustive, or alternatively, he/she may form a Disciplinary Committee to assist and advise him/her in reviewing the case:

- to issue a written warning to the staff member concerned;
- to order the staff member concerned to indemnify the costs of the disciplinary process;
- to order stoppage or deferralment of salary increase which may otherwise be enjoyed by the staff member concerned;
- to suspend or to forfeit the entitlement of the staff member concerned to one or more of the named fringe benefits which may otherwise be enjoyed by the staff member;
- to vary the grade and/or terms of appointment of the staff member concerned with or without reduction or forfeiture of the privileges and/or benefits;
- to dismiss the staff member concerned with or without reduction or forfeiture of the privileges and/or benefits.

According to the Code of Student Conduct and Disciplinary Procedure, major cases warranting disciplinary action will be referred to the Secretary of the Student Discipline Committee for consideration by a Student Discipline Panel. Penalties imposed by the Student Discipline Panel may consist of:

- withholding a student’s eligibility for receipt of a scholarship, prize or financial award; or for inclusion on the Dean’s List, or to represent the University in any external activity, for a specified period of time;
- exclusion from the use of University amenities/facilities for a specified period of time in excess of 8 weeks;
- suspension from the University for a specified period of time;
- expulsion from the University, which may include specification of a period within which a student may not be readmitted as a student of the University;
- the withdrawal of an award already made; etc.
19. If the complaint is not established and the complainant wants to appeal against such decision, the appeal should be submitted to the Chairperson of CASH in writing within three weeks after receiving the notification with full and complete details of the ground for the appeal. The Chairperson of CASH shall determine normally within three weeks whether to accept the appeal based on the grounds that:

(a) new evidence has come to light which was not previously considered by the Investigation Panel; and/or

(b) there is procedural irregularity in handling sexual harassment complaint.

20. If the Chairperson of CASH does not accept the complainant’s appeal, the decision of the Chairperson of CASH is final. Should the Chairperson of CASH decide to accept the complainant’s appeal, he/she shall appoint a Review Committee (comprising two or more persons) to review the appeal. Both the appellant and the alleged harasser should be informed by the Chairperson of CASH of the review.

21. The Review Committee shall review the case and make recommendation to the Chairperson of CASH as soon as practicable and normally within two months from the date the Review Committee is appointed. The Review Committee’s recommendations shall include whether the complaint is established and whether consideration should be given to instituting disciplinary action against the alleged harasser. The Review Committee may, if the complaint is established, also make recommendation on the penalties to be imposed when the Review Committee considers appropriate in a particular case. The Chairperson of the Review Committee shall determine the procedures of review and the standard of proof required should be based on the balance of probabilities and commensurate with the gravity of the breach of standards of behaviour.

22. If the complaint is not established, the Chairperson of CASH shall convey the outcome of the review to the appellant and the alleged harasser normally within three weeks after receiving the recommendation of the Review Committee. If the complaint is not established, the decision of the Chairperson of CASH is final.

23. In the event that the complaint is established, both the appellant (victim-complainant) and the alleged harasser should be informed as to whether the complaint is established, and whether consideration will be given to instituting disciplinary action against the alleged harasser and the penalties recommended (as the case may be). Both the appellant and the alleged harasser should be given a period of one week to respond. The response, if any, shall be considered by Review Committee before it reports the findings and recommendations to the Chairperson of CASH for consideration. After considering the findings and recommendations of the Review Committee, the Chairperson of CASH may write to the relevant authorities (with a copy to the President), providing the full report and recommendations, to take disciplinary action as appropriate.

24. For appeal against disciplinary action taken, the appeal procedures applicable to the Regulations Governing Staff Discipline or Code of Student Conduct and Disciplinary Procedure, as appropriate, shall apply (including, for the avoidance of doubt, the conditions in relation to the grounds of appeal such as new evidence or that the disciplinary procedures were not correctly followed).

25. In order to prevent duplication of investigation resources and to avoid a complainant having to give evidence to different University committees on the same matter, the disciplinary authority or the Chairperson of CASH shall be entitled and have the discretion to accept all or part of the findings (including but not limited to findings of facts) and/or recommendations of the Investigation Panel or the Review Committee or the Chairperson of CASH, as the case may be.
26. If at the conclusion of an investigation or disciplinary proceedings, there is clear evidence to show that such complaint is frivolous or vexatious or malicious, which amounts to an abuse of process, the party concerned may be liable to disciplinary action.

27. Whilst each party referred to in these procedures is expected to take all reasonable steps to comply with the time limits specified in this document, a failure to comply with one or more time limits (unless a material and culpable failure) will not in itself amount to the procedures being void or voidable.

28. A flow chart showing the process is presented at the Appendix III (b).

Revised 1 December 2015
Committee Against Sexual Harassment (CASH)

Standard Terms of Reference of Investigation Panel (IP)

[subject to adoption or modification by the IP as appropriate]

1. To carry out investigation on formal sexual harassment complaints in accordance with the University's Sexual Harassment Policy and Procedures.

2. To interview any relevant persons, including the complainant, the alleged harasser, and any witness(es)* as determined by the IP, with a view to establishing all relevant facts.

3. To consider and determine whether or not the complaints are established.

4. To make recommendations on whether consideration should be given to instituting disciplinary action against the alleged harasser in accordance with the University's Regulations Governing Staff Discipline or Code of Student Conduct and Disciplinary Procedure.

5. To make recommendations on the penalties to be imposed if disciplinary action is recommended to be instituted against the alleged harasser.

* The IP shall have the discretion to determine the number of witnesses it will interview (if any).

Revised 1 December 2015
Flow Chart on Handling Formal Sexual Harassment Complaints

Formal complaint received by Subject Officer Note 1

Acknowledge receipt within 2 weeks upon receipt of complaint

Subject Officer to report the case to the Chairperson of CASH with a copy to the President

Investigation and reply should be completed within 3 months. Chairperson of CASH and President to be informed if investigation cannot be completed within 4 months.

Investigation Panel Note 2 to conduct investigation and collect evidence

There are sufficient grounds to take formal disciplinary action Yes

Inform complainant and alleged harasser of the investigation/review results and proposed action

Complainant and alleged harasser to respond

Investigation Panel/Review Committee to report and make recommendation to the relevant disciplinary authority (copy to the President and the Chairperson of CASH/Chairperson of CASH on taking disciplinary action

Yes

Whether complaint is established

No

Inform complainant and alleged harasser of investigation results and outcome

May appeal within 3 weeks

Appeal to Chairperson of CASH

Report normally within 3 weeks

Yes

Whether appeal is accepted

No

Review Committee Note 3 to review the case

Normally within 3 weeks

There are sufficient grounds to take formal disciplinary action

Yes

Chairperson of CASH to consider recommendation

No

Normally within 3 weeks

Inform complainant/alleged harasser of the outcome

Notes

1. The Subject Officer will be the Director of Human Resources (or nominee) when the alleged harasser is a staff member; or the Dean of Students (or nominee) when the alleged harasser is a student at or below undergraduate level; or the Dean of Graduate Studies (or nominee) when the alleged harasser is a student at postgraduate level.

2. The Investigation Panel shall comprise the Subject Officer as Chairperson and at least 2 more Members from CASH. In appropriate circumstances and in consultation with the Chairperson of CASH, the Subject Officer has the authority to appoint other staff members, instead of Members from CASH, to serve as Members of the Panel. A relevant student representative or other persons may be co-opted on the Panel as decided by the Subject Officer in consultation with the Chairperson of CASH. The Subject Officer shall nominate a person to be the Secretary of the Investigation Panel.

3. The Review Committee shall be appointed by the Chairperson of CASH, comprising two or more persons.

Revised 1 December 2015