

University of Colombo Policy Against Sexual Harassment and Procedural Steps for Enforcement

This Policy provides for the prevention of sexual harassment, and a complaints mechanism for persons affected by sexual harassment. It applies to persons and places that come under the aegis of the University of Colombo.

General Principles

The University of Colombo is committed to maintaining a learning environment and workplace that are free of sexual harassment to all persons, irrespective of gender. Based on the fundamental values of human dignity, gender equality and respect for due process, this policy seeks to spell what sexual harassment means, prevent the occurrence of sexual harassment within the University of Colombo, and provide suitable procedures for inquiring into, and punishing acts of sexual harassment.

In Sri Lanka, sexual harassment is a criminal offence under Section 345 of the Penal Code and is criminalized in the context of Higher Education under Section 2(2) of the *Prohibition on Ragging and All Forms of Violence in Education Institutions Act* No 20 of 1998. Furthermore, the Constitution guarantees the right to equality and equal protection of the law including the prohibition of discrimination on the basis of sex (Article 12 (1) & (2)), and guarantees the freedom to engage in a lawful occupation (Article 14(1)(g)). Sri Lanka's international legal obligations under CEDAW (the Convention on the Elimination of All forms of Discrimination Against Women) and the ILO (International Labour Organization) Convention 111 titled 'Discrimination in Respect of Employment and Occupation' also require the prevention of sexual harassment in the workplace and the provision of remedies for victims of sexual harassment.

1.1. Objectives

- (i) To promote a culture at the University of Colombo in which the dignity and equality of all persons are respected
- (ii) To prevent the occurrence of sexual harassment through targeted, preventative interventions
- (iii) To adopt a zero tolerance on acts of sexual harassment and mechanisms to provide for the resolution of complaints through mediation and/or disciplinary action

1.2. Definition of Sexual Harassment

Sexual Harassment refers to any act (physical, verbal, gestural, visual, tacit or written) that inflicts physical, mental or other harm or annoyance based on another person's gender and/or sexuality. Such acts constitute sexual harassment, which applies when all members of the university community (see 1.4 for persons governed under this policy) engage in any of the above acts. (For examples see Acts Subject to Disciplinary Action – Section 2).

1.3. General Conduct

All persons who are governed by this Policy are required to follow accepted ethical standards in their conduct and are required to refrain from committing acts of sexual harassment, abstain

from promoting sexual harassment or encouraging it, desist from concealing acts of sexual harassment, contribute to efforts undertaken by the University to prevent sexual harassment, and promote a culture of respect for all persons irrespective of gender.

Such persons shall, for example,

(i) Refrain from making reference to sexuality explicitly or implicitly a term or condition of an individual's employment or academic advancement, work benefits or activity;

(ii) Refrain from using the rejection, or non-acceptance of sexual advances by an individual, as a basis for employment or academic decisions affecting or concerning such an individual;

(iii) Refrain from conduct that has a negative impact, on the basis of rejection or non-acceptance of sexual advances, on an individual's work or academic performance, or creates, or solicits others to create an intimidating, hostile, or offensive working and academic environment;

(iv) Refrain from concealing formal or informal complaints of sexual harassment; and

(v) Refrain from using ICT for acts of sexual harassment

1.4. Persons and Places governed by this Policy

(i) All those who derive their authority under the University Act and who act under the aegis of the University of Colombo are governed by this Policy (Ex. University administration and academic staff, temporary and visiting academic staff, students, external supervisors and examiners, evaluation panelists, academic support staff, non-academic staff, contract staff, employees of outsourced service providers).

(ii) All acts carried out under the aegis of the authority of the University are governed by this Policy whether within or outside the University premises.

2. Acts Subject to Disciplinary Action

Sexual harassment, perpetrated individually, or as a group, against an individual or a group for the purposes of disciplinary action by the Council of the University of Colombo constitutes the following kinds of behavior, but are not limited to:

2.1. Specific Acts of Sexual Harassment

(i) Unwelcome sexual advances and unwanted sexually oriented comments in the form of verbal, non-verbal, or physical conduct (Ex. lewd comments, lurid stares, sexually loaded insults, slander, remarks, gestures, jokes, letters, phone calls, electronic mail (email), SMS, MMS, and communications on social media)

(ii) Showing of pornography, making, or attempting to make physical contact or molestation, stalking, sounds including whistling, or display of a sexual nature

(iii) Requests for sexual favours

(iv) Sexualised requests or demands for favours accompanied by explicit or implicit promised rewards or threatened punishment

(v) Sexual assault or threatened sexual assault

(vi) False allegations of any of the above

2.2. Acts of Intimidation Connected with Complaints

Acts of harassment (Ex. slander, intimidation, discrimination, victimization, threats, indirect harassment) against any person who has complained of conduct covered by this Policy, or who is a witness, or who assists in the investigation of such a complaint shall constitute conduct subject to disciplinary action by the Council of the University.

3. Complaints of Sexual Harassment and Procedures

3.1. The Mechanism

The Council of the University of Colombo shall appoint a committee to conduct a preliminary investigation to gather prima facie evidence, and thereafter inquire into complaints of sexual harassment that will, following its inquiry, recommend in appropriate cases disciplinary action to the Vice Chancellor. This committee shall be known as the Committee of Inquiry on Sexual Harassment (CISH). The committee shall comprise ten members, and have gender parity, reflect the diversity of the university community and have at least three external members. All its members should have a proven track record of working on issues of gender equality and equity and be trained to investigate and inquire into cases of sexual harassment. The CISH will also have the authority to appoint mediators in consultation with the Vice Chancellor and the parties concerned, towards an informal resolution process where necessary.

3.2. Who May Complain

All persons governed by this policy (See 1.4. (i)) shall complain, as well as a visitor to the University and/or a third party who has a personal or professional link to the alleged victim or who has witnessed the alleged harassment (Ex. family member, member of the academic staff, student counsellor).

3.3. The Form of the Complaint and Procedures

(i) A person governed by this Policy may seek resolution through a written or oral complaint to the Vice Chancellor, and/or the Chair of the CISH, and/or the Faculty Grievance Committee. In the case of the complaint of sexual harassment being made to the Vice Chancellor or the Faculty Grievance Committee the latter shall forward it to the Chair of CISH for a preliminary investigation and thereafter where necessary an inquiry.

(ii) Any complaint should be made in writing and signed, or if the complaint is oral, the oral complaint shall be recorded in writing by the authority receiving the complaint (Ex. Rector, Director of Institute, Dean, Head of Department, Student Counsellor, Coordinator of Programs) and signed by the complainant.

(iii) A complainant may seek resolution through mediation and/or formal procedure.

(iv) Such procedures do not in any way prevent the complainant from, at any point, seeking redress under any law that may apply.

3.3.1. Mediation

(i) A complainant may opt for mediation to bring closure to the matter /and or prevent its recurrence. Use of the mediation process in no way precludes the complainant from using the formal adjudicative procedure.

(ii) By this mediation procedure, the complainant formally requests ameliorative action on the part of the accused by a written communication.

(iii) In consultation with the Vice Chancellor, the CISH shall appoint two mediators, acceptable to all parties to the complaint, consisting of one internal and one external member, who should also represent the genders of the parties to the complaint. An observer (non-legal) who represents the interests of each of the parties to the complaint, and a representative of CISH may be present at the mediation proceedings. The CISH has the responsibility to ensure that the mediation process is carried out in a collegial and non-threatening environment.

(iv) If the mediation procedure is concluded to the satisfaction of both parties the matter is reported to the Vice Chancellor and closed.

(v) Confidentiality should be maintained regarding all complaints. Interview recordings if any, communications, documentations, and reports shall be divulged only to authorized persons.

3.3.2. Formal Procedure

(i) The formal procedure shall be initiated by a party to a complaint through a written communication to the CISH through the Vice Chancellor and/or the Faculty Grievance Committee in the following instances:

(a) Where the mediation process fails (either during its process or at its conclusion) to satisfy either party

(b) Where either party chooses to adjudicate the complaint through the formal process

(ii) Where the Vice Chancellor initiates a formal process at his/her discretion and refers the complaint to the CISH for the same.

(iii) The CISH should complete its preliminary investigation and, if prima facie evidence is found, its inquiry and submit its report and recommendations to the Vice Chancellor within two months of receiving the complaint. The Vice Chancellor shall thereafter, make his or her recommendations on the report and forward it to the Council of the University for necessary action.

(iv) Members of the CISH who serve on the preliminary investigation should not serve on the subsequent inquiry

(v) If the CISH finds that a malicious false complaint has been made, it shall be reported to the Vice Chancellor who shall consider the matter and refer this to the Council of the University for necessary action. However, inability to prove a complaint of sexual harassment should not be designated a false complaint.

(v) The sexual history and/or sexual orientation of the complainant shall be deemed irrelevant to a complaint of sexual harassment at any one given time.

(vi) When any complaint is being considered for resolution, the parties to the complaint shall not be permitted to continue with, or undertake any activity, that can intimidate or unduly influence the complainant to withdraw the complaint or discontinue the process in any way. During this time, the parties shall, in general, be required to maintain minimum contact.

(vii) Nothing in this Policy shall prevent the Vice Chancellor initiating a formal disciplinary procedure in respect of conduct that comes within the scope of this Policy and constitutes grave misconduct for the purpose of disciplinary action under the University Establishment Code.

(viii) Any findings or conclusions arrived at through the procedure do not preclude the application of any law that may apply.

4. Prevention of Sexual Harassment

(i) This Policy shall be accessible to the entire university community and made available in Sinhala, Tamil, English and Braille, and be published in student handbooks, the university calendar and the university website.

(ii) A clause on this Policy and General Code of Conduct should be included in all staff contracts and letters of appointment.

(iii) This Policy shall be discussed at all relevant staff development and orientation programs conducted by the university.

(iv) Staff Development and Training Programs of the University for academic and non-academic staff shall include a component designed for promoting gender equality and equity and for developing gender sensitivity in the workplace. Such programs shall include a session on this Policy.

(v) Any constitution of Student Associations of the University shall include a reference to this Policy and to the Prohibition on Ragging and All Forms of Violence in Education Institutions Act.

(vi) All service contracts entered into by the University with providers of outsourced services shall include a provision which states the obligation of any party entering into such contract to adhere to this Policy.

(vii) The University shall provide a trained counselling service to address prevention and consequences of sexual harassment. This service shall also be made available to any of the parties to a complaint made under this Policy.
