



# MBARARA UNIVERSITY OF SCIENCE AND TECHNOLOGY

## POLICY AGAINST SEXUAL HARASSMENT



February 2020

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## **POLICY AGAINST SEXUAL HARASSMENT**



**February, 2020**

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## LIST OF ACRONYMS

<b>AB</b>	Appointments Board
<b>AfDB-HEST</b>	African Development Bank-Higher Education, Science and Technology
<b>AIDS</b>	Acquired Immune Deficiency Syndrome
<b>ASHC</b>	Anti-Sexual Harassment Committee
<b>C/F</b>	Case Facilitator
<b>DOS</b>	Dean of Students
<b>HIV</b>	Human Immunodeficiency Virus
<b>HR</b>	Human Resource Director/Directorate
<b>ISDC</b>	Internal Staff/Student Disciplinary Committee
<b>MUST</b>	Mbarara University of Science and Technology
<b>MUSTASA</b>	Mbarara University of Science and Technology Academic Staff Association
<b>MUSTSAF</b>	Mbarara University of Science and Technology Senior Administrator Forum
<b>NUEI</b>	National Union of Educational Institutions
<b>SH</b>	Sexual Harassment
<b>STI</b>	Sexually Transmitted Infections
<b>SWDC</b>	Student Welfare and Disciplinary Committee
<b>TMC</b>	Top Management Committee
<b>UC</b>	University Council
<b>UOTIA</b>	Universities and Other Tertiary Institutions Act
<b>US</b>	University Secretary
<b>USHC</b>	Unit Sexual Harassment Committee



*stop sexual harassment*

# 1

## BACKGROUND

Mbarara University of Science and Technology (MUST) is a community of scholars whose commitment to the generation, dissemination and transfer of knowledge for societal well-being is everyone's goal. Given this goal, creating and ensuring an environment that provides safety and security of all the members of the University Community, is a priority.

This is why MUST has committed itself to a learning and working environment that is fair, respectful and free from all forms of Sexual Harassment. It is for this cardinal reason that the MUST Sexual Harassment Policy was approved in July 2010 and was part of the Human Resource Manual. The policy has since been functional and has been used to prevent, handle and control sexual harassment in the University.

However, the SH Policy was designed for the entire University community including staff, students and associated third parties. In this regard, with support from AfDB HEST, a participatory review process was conducted with the view of keeping the Policy up to date with the current social and legal environment. These, therefore, necessitated the extraction of the Policy from the MUST HR Manual and have it approved independently.

The SH policy has been and shall continue to be implemented within the framework of existing and developing policies and guidelines of the University.

We appeal to the entire University Community to follow this Policy and help MUST achieve its mandate and Vision.

This is why MUST has committed itself to a learning and working environment that is fair, respectful and free from all forms of Sexual Harassment



## Policy Approval

The 7th University Council HEREBY enacts the MUST Sexual Harassment Prevention Policy,  
this **21<sup>st</sup> day of February 2020.**

Signatures



Chair, MUST 7<sup>th</sup> Council



Secretary to Council

# PREAMBLE

Whereas the Universities and Other Tertiary Institutions Act (UOTIA), 2001 as amended under Section 40 empowers the University Council to approve regulations necessary for the fulfillment of the objectives and functions of the University;

The Ugandan Bill of Rights, 1995, provides inter alia that all persons are equal in all aspects of life and shall enjoy equal protection of the law; MUST is bound to the Laws of Uganda specifically the Section 7(4) Employment Act 2006 and Regulation 3(1) and 4 of the Employment (Sexual Harassment) Regulations, 2012, S.I No. 15 of 2012 which provide for the adaptation of measures or a policy in a work place of more than 25 staff to handle Sexual Harassment matters.

Recognizing that MUST'S vision is to be a centre of academic and professional excellence in science and technology, it has made a commitment to create a conducive environment of mutual respect among members of the University community. This calls for due regard for the rights and feelings of others, free from sexual harassment whether it's from a studying or working perspective.

MUST is committed to upholding professional ethics and conduct for the smooth running of the University functions. The University therefore affirms that sexual harassment which may occur between equals, but most often occurs in situations when one person has power over another is a negation of mutual respect among the involved parties.

It is also a violation of the fundamental rights, dignity and integrity of the person and that it undermines the environment required for the advancement of learning, dissemination of knowledge, research and productive work.

In line with this and the Laws of Uganda and in an effort to provide a safe haven and sanctuary of education for all its stake holders, the creation of this policy was viewed as inevitable.



## DEFINITION OF TERMS

<b>Alleged perpetrator</b>	A person alleged to have committed an act of sexual harassment
<b>Anti-Sexual Harassment Committee (ASHC)</b>	A committee charged with the duty to ensure the implementation of this Policy. The ASHC will be designated by the University Top Management.
<b>Case facilitator</b>	The person assigned by the ASHC to present the University's case informal internal disciplinary proceedings, who may also be the person assigned to investigate the case.
<b>Complainant</b>	A person who lodges a complaint. The victim; a person against whom an act of sexual harassment as defined in the policy has or have allegedly been perpetrated, can also be a complainant.
<b>Confidentiality</b>	The nondisclosure of certain information.
<b>Code of Conduct</b>	The rules on the conduct of the students and the employees adopted by the University council
<b>Dean of Students</b>	A person appointed by the University Council and is responsible for the welfare of the students. (UOTIA 2001)
<b>Disciplinary Committee(s)</b>	The sub-committee(s) of the University Council that is responsible for handling disciplinary matters among staff and students.
<b>Employee</b>	A person who has been appointed by the University as stipulated in the Human Resource Manual.
<b>Misconduct</b>	Conduct contrary to as defined by the code of conduct adopted by the University Council and the Code of Conduct and Ethics for Uganda Public Service.
<b>Student</b>	A person duly admitted or attached to an academic or research program at the University.
<b>Third Parties</b>	These are individuals or groups of people who visit the university or are affiliated to the university or who take part in the University's activities at any location. These include among others applicants for admission and employment, guests, visiting lecturers/students, contractors, hospital staff engaged in teaching/supervising students, field attachment partners (where students may go for internship or placement), security agencies within the university, vendors/suppliers of goods and services to the University.

<b>University</b>	Mbarara University of Science and Technology (MUST)
<b>University Council</b>	The governing body of the University appointed in accordance with the Universities and Other Tertiary Institutions Act, 2001.
<b>University Secretary</b>	A person appointed by the University Council and is responsible for the general administration of the University as specified in UOTIA 2001.
<b>University Top Management</b>	The top coordinating committee of the University chaired by the University Vice-Chancellor.
<b>Dating Violence</b>	Dating violence is defined as violence or abusive behaviour against an intimate partner (romantic, dating, or sexual partner) that seeks to control the partner or has caused harm to the partner (the harm may be physical, verbal, emotional, economic, or sexual in nature). The existence of such a relationship shall be determined based on consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of the interaction between the persons involved in the relationship
<b>Discrimination</b>	Occurs when an individual suffers adverse and different employment or academic treatment attributed only or mainly to their respective descriptions (such as sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or disability) or any other decision based on an individual's protected interests.
<b>Discriminatory Harassment</b>	Defined as unwanted verbal, visual, or physical conduct that denigrates or shows hostility or aversion against an individual protected by this policy (because of that person's race, skin colour, religion, gender, national origin, age, or disability),  Harassment can also occur if the conduct is directed toward a person's relatives, friends, or associates. Harassment does one or more of the following:  a) Has the purpose or effect of creating an intimidating, hostile, or offensive work/study environment  b) Has the purpose or effect of unreasonably interfering with an individual's work/academic performance  c) Otherwise adversely affects an individual's employment/academic opportunities



<b>Same-sex harassment</b>	Harassment where the alleged perpetrator and the victim are of the same sex.
<b>Sexual Harassment</b>	<p>For purposes of this policy sexual harassment is defined as unwelcome and persistent sexual advances, requests for sexual favours or unwanted physical, verbal or non-verbal conduct of a sexual nature that violate the rights of a person. Such conduct would constitute sexual harassment when:</p> <ul style="list-style-type: none"> <li>a) Submission to such conduct is made either explicitly or implicitly a condition of an individual's employment/promotion or academic achievement/advancement.</li> <li>b) Submission to or rejection of such conduct is used or threatened or insinuated to be used as a basis for decisions affecting the employment and/or academic standing of an individual.</li> <li>c) Such conduct has the effect of unreasonably interfering with an individual's work or academic performance or creating a working/learning environment that is intimidating, threatening, hostile or offensive.</li> </ul> <p><b>OR</b> It can also mean any kind of behaviour with sexual connotations that are unacceptable a given society (MUST).</p> <p>1. In determining where conduct constitutes sexual harassment the following factors are to be taken into account:</p> <ul style="list-style-type: none"> <li>a) The frequency, nature and severity of the sexual conduct;</li> <li>b) Whether the conduct was physically threatening;</li> <li>c) The effect of the conduct on the complainant's mental or emotional state;</li> <li>d) Whether the conduct arose in the context of other discriminatory conduct;</li> <li>e) Whether the conduct unreasonably interfered with the complainant's educational or work performance and/or University programs and activities;</li> <li>f) Whether the conduct implicates concerns related to academic freedom or protected speech.</li> <li>g) Whether the harassment is on grounds of sex and/or gender (regardless of the sexual orientation of either the complainant/victim or the alleged perpetrator); and</li> </ul>



- a) The complainant feels that submission to the sexual advances is necessary in order to get or keep a job/admission/registration/academic performance in the university.
2. Sexual harassment may take the form of special victimisation, *quid pro quo* harassment and creation of a hostile environment.
- a. *Special victimisation* occurs when a person is victimised or intimidated for failing to submit to sexual advances
- b. *Quid pro quo* harassment. *Quid pro quo* is Latin for "something for something" or "this for that." When an employee is asked, either *directly or indirectly*, to submit to a sexual advance in exchange for some benefit at work (such as a promotion or a pay advance), *quid pro quo* harassment has occurred. Only supervisors can engage in this type of harassment since it requires the authority to grant a job favour in return for the unwelcome advance or request.
- c. In case of a student, *quid pro quo* harassment occurs when an alleged perpetrator *explicitly or implicitly* influences or attempts to influence admission to the university or university residences, access to training, organisation or funding opportunities or interferes in grading or evaluation, by coercing or attempting to coerce the student to engage in sexual activities
- d. *Hostile work/study environment harassment* occurs when harassment makes the work/ study place intolerable because constant sexual or comment interferes with a person's ability to do his or her job/ academic activities. A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of Sexual Assault, for example, maybe sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.



<b>Sexual Violence</b>	<p>Sexual violence includes acts such as rape, dating and domestic violence, sexual assault, sexual exploitation, stalking, and other forms of non-consensual sexual activity; or violence or harassment based on sexual orientation.</p> <ul style="list-style-type: none"> <li>a) <b>CONSENT</b> is defined as words or conduct indicating a freely given agreement to have sexual intercourse or to participate in sexual activities. Sexual contact will be considered “without consent” if no clear consent, verbal or nonverbal, is given; if inflicted through force, the threat of force, or coercion; or if inflicted upon a person who is unconscious or who otherwise reasonably appears to be without the mental or physical capacity to consent. Categories of sexual violence include, but are not limited to, the following:</li> <li>b) <b>DEFILEMENT</b>. Defilement is defined as any sexual intercourse with a child under the age of 18 years old, whether or not the child consents and it is a crime according to the laws of Uganda.</li> <li>c) <b>RAPE</b>. Rape is defined as any act of sexual intercourse or sexual penetration of any orifice of the body with a body part or other object that takes place against a person's will or without consent, or that is accompanied by coercion or the threat of bodily harm.</li> <li>d) <b>SEXUAL ACTIVITY</b> is defined to include conduct and activities which are intended to arouse the sexual interest of another, such as strategies to find or attract partners, and personal interactions between people, such as flirting and foreplay.</li> <li>e) <b>SEXUAL ASSAULT</b>. Sexual assault is defined as any intentional sexual touching with any object(s) or body part(s) that is against a person's will or without consent or that is perpetrated through coercion or threat of bodily harm.</li> <li>f) <b>SEXUAL EXPLOITATION</b>. Sexual Exploitation is taking sexual advantage of another, for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples include, but are not limited to recording, photographing or transmitting sexual photos, sounds, images or other information; voyeurism; indecent exposure; prostituting or soliciting another person; inducing incapacitation to commit acts of sexual misconduct; knowingly exposing another person to sexually transmitted infection (STI) or human immunodeficiency virus (HIV).</li> </ul>
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	<p>g) <b>SEXUAL ORIENTATION.</b> Sexual orientation is defined as a person's identity in relation to the gender or genders to which they are sexually attracted; the fact of being heterosexual, homosexual, etc.</p> <p>h) <b>STALKING.</b> Stalking is defined as repeated, unwanted contact with any person, including contact by electronic means or by proxy, or the credible threat of repeated contact with the intent to place a reasonable person in fear for his or her safety or the safety of his or her family or close acquaintances or to inflict substantial emotion distress.</p> <p><b>Note:</b> Capital offenses (e.g. rape and sexual assault) shall be dealt with according to the laws of Uganda. Victims shall be assisted as deemed right.</p>
<b>Unwelcome sexual conduct</b>	<p>Includes physical, verbal and non-verbal conduct or behaviour that is perceived by the complainant as demeaning, compromising, embarrassing, threatening and/or offensive:</p> <ul style="list-style-type: none"> <li>a) The assessment of what is unwelcome should be defined by context including culture or language;</li> <li>b) Previous consensual participation in sexual conduct does not mean that subsequent sexual conduct continues to be welcome or acceptable. The victim should indicate to the perpetrator that sexual conduct is unwelcome.</li> <li>c) When a victim has difficulty indicating to the alleged perpetrator that the conduct is unwelcome, the victim may seek the assistance and intervention of another person in order to make it clear that the conduct is unwelcome;</li> <li>d) Some forms of sexual harassment are such that the alleged perpetrator should have known that the behaviour would be unwelcome</li> </ul> <p>Unwelcome sexual conduct may be direct or indirect and may include technological devices, images and weapons. A single isolated incident of unwelcome sexual conduct of such conduct, if sufficiently severe, can constitute sexual harassment;</p>
<b>Unwelcome Physical Conduct</b>	<p>Unwanted and intentional physical contact of any sort which is sexual in nature especially touching either directly or through the clothing, of anybody parts (the genitalia, anus, groin, breast, inner thigh, or buttocks), brushing against another's body, hair or clothes, kissing, pinching, patting, grabbing or cornering; with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of another person.</p>

<b>Unwelcome Verbal Conduct</b>	Includes innuendos, suggestions or hints of sexual nature, sexual advances, sexual threats, comments with sexual overtones, sex-related jokes, innuendos, lewd suggestions, foul language, or insults, graphic or belittling comments about a person's body, inappropriate inquiries or telling lies about a person's sex life with the purpose of assassinating his/her character, whistling of a sexual nature, persistent demands for dates/sex and the sending by electronic means or otherwise of sexually explicit text, audio or video;
<b>Unwelcome Non-Verbal Conduct</b>	Includes obscene gestures, indecent exposure and the display or sending/transmitting offensive telephone or electronic or other means of sexually explicit/ suggestive pictures, pornographic pictures or objects. Note: Perpetrators of sexually harassing behaviour should not invoke the <b>dress code</b> of any member of the MUST community as a defence for explaining away their unwelcome conduct
<b>Other forms of sexual harassment</b>	Requesting for sexual favours in return for rewards, favours, exclusions or inclusions; Sexual favouritism can give rise to complaints of sexual harassment. If one employee or student is granted a promotion in return for sexual favours, other male and female co-workers/students can allege sexual harassment by showing that they were denied an equal opportunity for promotion because of the improper sexual conduct.
<b>Whistleblowing</b>	When a concerned individual passes on information concerning wrongdoing in this case behaviour that may tantamount to sexual harassment as per the descriptions in this policy. The University shall ensure that individuals shall raise concerns without fear of suffering retribution and provide a transparent and confidential process for dealing with the raised concerns.
<b>NOTE:</b> When deciding whether conduct unreasonably interferes with an individual's employment or academic performance, the institution shall consider the totality of circumstances including the context of the conduct, its severity, frequency, and whether it was physically threatening and humiliating, or a mere offensive utterance.	



## 2

# INTRODUCTION

Sexual harassment can present serious problems for both students and employees of any institution. In addition to creating tension in the work/study place and potential friction between employees/students, it can significantly cost an institution if a university member decides that nothing much has been done to prevent it. The first line of defence against sexual harassment occurring in a work/study place is to have a clear policy stating all the essential elements of such a policy and spelling out that this issue is taken seriously and that the consequences of engaging in inappropriate behaviour can be severe.

Sexual harassment in many societies is considered to be under-reported due to the stigma associated with discussing issues of sexuality in the public domain and also due to lack of sufficient evidence to submission and resolution of formal complaints. This policy, therefore, is designed to meet the sexual and reproductive health sensitive and responsive principles aimed at ensuring a healthy workforce and also strengthen the HRM and student rules.

The Constitution of Uganda prohibits discrimination on the grounds of sex and affords every individual full dignity and protection of the law. The Employment Act 2006, section 7, subsection (4) and Regulation 3(1) of the Employment Sexual Harassment Regulations, 2012 stipulate that every employer who employs more than twenty-five employees is required to have in place measures to prevent sexual harassment occurring at their workplace. This SH Policy framework, therefore, reflects the institutions' commitment to ensuring that sexual harassment does not take place and with the aim of enhancing a favourable work and academic environment. This requires the responsibility of every member of the University Community to conduct him/herself in a manner that contributes to an environment free of sexual harassment.

The SH policy is based on the existing policy and legal framework both at institutional, national and international levels. Therefore, this policy should be understood in the context of other applicable national and University laws and regulations which include; National Gender Policy, Gender and Equity in Education Sector Policy and MUST policies, rules and statements such as; the HIV/AIDS institutional policy, the Special Needs Education policy, the Gender Policy, the Human Resource manual, MUST code of conduct/Students general and other rules, the Constitution of the Republic of Uganda 1995, the Employment Act, 2006.

## 2.1 POLICY CONTEXT

This policy against Sexual Harassment is to address acts and practices related to sexual harassment at all levels within the structures of MUST. It is based on the findings from the 2007 Situational Analysis, on HIV/AIDS at the Work/Study place (Ruzaaza. G. and Kyagaba E), and during the HIV/AIDS Institutional Policy implementation activities where sexual harassment came up as one of the emerging sexual reproductive health challenges.



In line with the Constitution of the Republic of Uganda that guarantees all Ugandans equality, dignity, and non-discrimination, MUST is committed to creating an environment that is respectful and protective of the rights of all its male and female members.

Currently, a number of cases relating to sexual harassment have been topical in Institutions of Higher Learning. Such cases have appeared in media and have put the institutional image at stake, affecting public trust in such institutions. The current state of anti-sexual harassment campaign is inserted in the HR manual of 2018 which does not clearly detail the punitive measures. The University, therefore, reaffirms its zero-tolerance for sexual harassment.

## **2.2 POLICY STATEMENT AND JUSTIFICATION**

MUST strives to be an equal opportunity, affirmative action institution that operates in compliance with applicable laws and regulations. The focus of this policy is to prohibit any form of discriminatory harassment including sexual harassment, dating violence, rape, defilement, sexual assault, sexual exploitation and stalking. The focus, therefore, is on the prevention and management of sexual harassment in MUST.

The University will effectively respond to reports of sexual harassment and associated discriminatory conduct to resolve complaints through preventive, corrective and disciplinary measures to all those who violate this policy.

The University prohibits retaliation against a member of the MUST community for filing a complaint, assisting in the filing of a complaint and/or participating in the resolution of a complaint. Retaliation includes, but is not limited to threats, intimidation, and/or adverse actions related to employment or education.

This policy is intended to combat sexual abuse and harassment and shall not limit academic freedom or the principles of free inquiry. The policy is not intended to restrict teaching methods, freedom of expression, or social contact nor will it be permitted to do so.

Sexual harassment is neither a legally protected expression nor the proper exercise of academic choice. On the contrary, sexual harassment compromises the Institution's integrity as well as its traditional intellectual freedom. The exercise of the right to academic freedom is therefore subject to protection from conduct that constitutes sexual harassment.

## **2.3 POLICY GOAL**

Promote social integrity for a healthy, productive and motivated labour force and student population in Mbarara University of Science and Technology.

### **2.3.1 POLICY OBJECTIVES**

The objectives of the policy are:

- a) To conscientize and enhance the awareness of the MUST community about the evils of sexual harassment, and in so doing engendering a sense of social responsibility and zero-tolerance to such behaviour in the work and study place.
- b) To provide a basis of establishing an institutional framework that encourages victims of sexual harassment to exercise their right, maintain their dignity and reject the pressures of sexual harassment.
- c) To guide the action in eliminating sexual harassment at MUST and execute corrective measures as is necessary, including disciplinary action where appropriate.
- d) To provide a reference point through the established committees and responsible body for sexual harassment cases by the victims and subsequent institutional action and decision making through the established protocols.

### **2.3.2 POLICY STRATEGIES**

MUST shall achieve the above objectives through the following assigned strategies:

***Objective 1: To conscientize and enhance the awareness of the MUST community about the evils of sexual harassment, and in so doing engendering a sense of social responsibility and zero-tolerance to such behaviour in the work and study place.***

Strategic Actions

- a) Adopting and implementing the Policy against Sexual Harassment.
- b) Establishing the Anti-Sexual Harassment Committees to handle complaints of sexual harassment.
- c) Launching sensitisation programmes and advocacy for education about sexual harassment for students and staff at all levels of the University.

***Objective 2: To provide a basis of establishing an institutional framework that encourages victims of sexual harassment to exercise their right, maintain their dignity and reject the pressures of sexual harassment.***

Strategic Actions

- a) Equipping members of the MUST community with knowledge, skills and mechanisms to defend themselves against sexual harassment.
- b) Encouraging members of the MUST community to report cases of sexual harassment by guaranteeing protection of informants and witnesses (includes whistle-blowers and information received in the suggestion box and other means)

- c) Ensuring the confidentiality of cases to the degree that it is possible by the ASHC.

***Objective 3: To guide the action in eliminating sexual harassment at MUST and execute corrective measures as is necessary, including disciplinary action where appropriate.***

#### Strategic Actions

- a) Integrating sexual harassment into the curriculum of the service course for all students
- b) Establishing a gender-responsive monitoring and evaluation framework for the prevention of sexual harassment.
- c) Promoting action research that highlights the root causes and complexities of sexual harassment as well as viable interventions such that a culture that is responsive to diversities is subsequently cultivated.

***Objective 4: To provide a reference point through the established committees and responsible body for sexual harassment cases by the victims and subsequent institutional action and decision making through the established protocols.***

#### Strategic Actions

- a) Establishment of the Sexual Harassment Committees and the Chairperson's office.
- b) Establishing guidelines in which Sexual Harassment cases can be reported by the alleged victims and procedures thereafter
- c) Documenting sexual harassment cases for proper record and archiving purposes
- d) The orientation of supervisors in aspects provided for in the policy for guided decision making





**3**

## SCOPE

The MUST Sexual Harassment Policy covers all members of staff and students and related third parties (such as applicants for admission and employment, vendors, guests and contractors) (collectively known as "MUST community") involved in University employment, classes, programs and activities. The policy applies to all those involved in University activities regardless of whether in on and off-campus settings



## 4.1 COMMUNICATION AND DISSEMINATION OF THE POLICY

- a) The University shall take all reasonable steps to communicate this policy to all employees, students and third parties on a regular basis and to raise awareness about the need to prevent sexual harassment.
- b) The University shall make this policy available on its Website and provide regular and current information on its implementation and have the same gazetted.
- c) The University shall communicate about the Policy in the joining instructions and mentorship programs for students and staff.
- d) The University shall consider mainstreaming aspects of the Policy in the formal curricular like Gender and Women Health and the Service Courses

The University Top Management shall ensure that a) b) c) and d) occur.

### 4.1.1 The Deans and Directors shall:

- a) Communicate regularly by written or oral means the seriousness of the issue and the existence of this policy and its salient features to employees, students and third parties within their faculties/Institutes;
- b) Communicate regularly with Heads of Departments and all other supervisors in the faculty/institute concerning their responsibilities in the implementation of this policy.

### 4.1.2 The Dean of Students shall:

- a) Communicate regularly by written or oral means the seriousness of the issue and the existence of this policy and its salient features to employees, students and third parties within the University residences.
- b) Communicate by written or oral means the contents to the Students' Guild. This shall be during orientation of first-year students and at other opportune moments using appropriate media.
- c) Make the policy part of outreach programmes of clubs and societies

### 4.1.3 The ASHC shall:

- a) Provide the Public Relations Department with information that will enable the University community to be informed regularly about the implementation of this policy
- b) Report annually to the University Top Management about the effectiveness of the implementation of this policy.

## 4.2 EDUCATION AND TRAINING

Continuing education and training/sensitisation are necessary to ensure that the University Community is aware of the contents of this policy and are able as appropriate to implement it and to prevent sexual harassment

This shall be through instituting empowerment programmes for the University Community, strengthening the guidance and counselling unit of MUST, and encouraging academic staff and

students to carry out research on Sexual and Gender-Based Violence to inform MUST's Policy Planning and Programming.

#### **4.3 THIRD PARTIES**

While the University has no jurisdiction over third parties who are neither students nor employees of the University, the University intends that this and related policies will be upheld and respected by all who work at or visit the university or who take part in the University's activities at any location (such as hospital staff engaged in teaching/supervising students, where students may be for internship or placement, security agencies within the university).

Where such third parties are not subject to the code of conduct for staff and students, the ASHC will keep a record of complaints and reported violations of this policy and will report to appropriate offices or agencies so that the information can be taken into account in considering whether to continue to contract for services.

# 5

## POLICY IMPLEMENTING ORGANS

- a) There shall be an Anti-Sexual Harassment Committee (ASHC) which shall be appointed by the Vice-Chancellor on behalf of Top Management. The Committee shall be charged with the duty and authority to ensure full implementation of this Policy.
- b) Each Faculty/Institute and Administrative Department shall nominate a Unit Sexual Harassment Committee (USHC) to deal with complaints at a local level.

### 5.1 THE ROLE OF THE ANTI-SEXUAL HARASSMENT COMMITTEE

The Anti-Sexual Harassment Committee will be charged with the duty to ensure the implementation of this Policy. It shall endeavour to observe to basic principles of natural justice.

The ASHC shall provide a comprehensive sexual harassment response for the University. This will include the provision of supportive and protective measures to the complainant whether or not disciplinary proceedings are instituted.

The supportive measures may include, but are not limited to:

- a) Counselling and other psycho-social services to address the plight of the victims of sexual harassment, particularly the emotional and physical trauma they suffer.
- b) Emergency medical services (e.g. Post Exposure Prophylaxis), para-legal advice and other relevant services
- c) Measures to mitigate the impact of sexual harassment or the reporting thereof on the complainant.

The protective measures may include, but are not limited to:

- a) No-contact orders, where appropriate
- b) Change of University student residence, where appropriate
- c) Change of academic classes and academic concessions, where appropriate
- d) Special leave (staff) or leave of absence (students) where appropriate

While the primary aim of this policy is to assist complainants who allege sexual harassment, an alleged perpetrator may at any stage approach the ASHC for advice on the application and interpretation of the policy. This policy recognizes the right of the alleged perpetrator to a fair



hearing. In such instances the ASHC shall:

- a) Provide the alleged perpetrator with a copy of this policy and of the University's disciplinary rules;
- b) Advise the alleged perpetrator of her/his right to obtain legal representation and of the availability of counselling;
- c) Advise the alleged perpetrator that the University may choose to follow the University disciplinary rules even if the complainant does not wish to do so;
- d) Explain to the alleged perpetrator the protective measures available to the complainant

## 5.2 COMPOSITION OF THE COMMITTEE

- a) The composition of the committee shall be drawn from the different groups at MUST such as Mbarara University of Science and Technology Academic Staff Association (MUSTASA), Mbarara University of Science and Technology Senior Administrator Forum (MUSTSAF), National Union of Educational Institutions (NUEI) and the Students Guild. The hierarchical ranks within the categories shall be taken into account. It shall also include representation from the University Secretary's office, the Dean of Students office, the Academic Registrar's office, the Directorate of Human Resource and Faculties/Institutes. Issues of gender balance shall be considered. The list of members shall be published and regularly updated. The members shall receive training and sensitization on sexual harassment.
- b) When there is a reported case of sexual harassment, the Vice-Chancellor on behalf of Top Management shall appoint from the composition an ad hoc committee chair and membership of 3 to 9 members to handle the case. To avoid pre-telling and impunity, the Committee will constitute of members from which an ad hoc investigating team of at least three members shall be selected to deal with each arising case. They shall be temporary members of the ad hoc Committee. The ad hoc committee will co-opt students to the team whenever cases of sexual harassment directly involve students.
- c) The composition of the ad hoc committee to handle specific cases shall be carefully selected to ensure that:
  - i. All members are people of integrity with no previous allegations of sexual harassment;
  - ii. There are no conflict of interest issues;
  - iii. At least half of the members are female;
  - iv. The number of members shall be odd to cater to majority based decisions;
  - v. Student representation shall be limited to cases where students are involved either as victims or perpetrators;
  - vi. No junior staff shall be appointed to investigate staff members who serve in senior University positions unless the case involves a junior staff as a victim;
  - vii. If the alleged perpetrator is a member of the Top Management Committee; a committee of the University Council shall conduct the investigations.



# 6

## LODGING A COMPLAINT

Complaints of sexual harassment must be brought to the attention to the ASHC through the USHC and Top Management Committee by the victim, a witness or any concerned person. All received complaints shall be handled expeditiously and with utmost care in the interest of justice for all parties involved in order reach a fair conclusion to the matter and where possible an amicable settlement between the parties.

- a) There are two options that a witness or a victim of sexual harassment may wish to pursue: an informal procedure and a formal procedure as seen in section 7 and 8 below.
- b) In the case of the Victim being a student, they will make a complaint to DOS through the USHC through his/her Head of the department or can report directly to the DOS, who will present the same to the TMC for further action.
- c) In the case of the victim being a member of Staff, they will report to the University Secretary through the Director Human Resource or directly to the University Secretary who will present the same to the TMC.
- d) In the case where the complainant is a Third Party, they will report directly to the University Secretary who will present the complaint to the TMC for further action.
- e) There will be a MUST /ASHC Suggestion Box and an ASHC Suggestion box which will be open to those that want to share any information (Whistle Blower) concerning any case being handled by the ASHC.
- f) Whistle-blower information and any information found in the MUST suggestion box, or reported by email or telephone text shall be shared with the ASHC handling the matter and investigated for merit and complaints addressed as appropriate.
- g) When the matters are reported to the TMC, it will through the Vice Chancellors office, appoint ASHC and its Chairperson and these will be not less than 3 and not more than 9 members and forward the complaint to them for further handling.
- h) On receipt of a complaint from the TMC, the ASHC will have the same recorded in writing and assigned immediately to a case facilitator who will expeditiously manage the complaint well putting into account the sensitivity of the matter,
- i) The ASHC will put in place a Suggestion Box for any information the public would like to share with them pertaining to any case they are handling or any other matter and the same will be investigated for merit and complaints addressed as appropriate.
- j) The steps to be taken by the case facilitator on receipt of a complaint should include, but are not limited to, the following:



- i) Advise the complainant that there are formal and informal procedures which can be followed;
  - ii) Explain the formal and informal procedures to the complainant;
  - iii) Advise the complainant that he/she may choose which procedure should be followed by the University, but that the University reserves the right to pursue the matter further in accordance with the University Rules and Policies even where the complainant has decided not to;
  - iv) Advise the complainant that the case facilitator assisting him or her may not be called as a witness during any formal procedure;
  - v) Reassure the complainant that she or he will not face any adverse consequences in choosing to follow either the formal or informal procedure;
  - vi) Advise the complainant that the matter will be dealt with confidentially;
  - vii) If applicable, advise the complainant that no negative inference on his or her credibility will follow as a result of late reporting;
  - viii) Provide the complainant with information about counselling services available within the University as well as information on how to access independent counselling and other services;
  - ix) Inappropriate circumstances, advise the complainant of her or his right to refer the matter to the Ugandan Police and obtain further legal advice outside the University.
  - x) Report back to the ASHC of any findings or decisions taken by the Complainant and seek further guidance.
- k) If a complainant, after consultation with the case facilitator, does not wish to pursue the matter, and the complaint is judged by the ASHC to be of a serious nature, the ASHC must refer the matter to the office of the University Secretary (US) or the Dean of Students' (DOS) office (where applicable). The ASHC, in consultation with the US's office or DOS' office (where applicable), shall consider all relevant information, including but not limited to the following:
- i. The risk to other persons in the University;
  - ii. The severity of the sexual harassment;

- iii. The history of the alleged perpetrator with regard to previous cases and complaints of sexual harassment.
- l) If it appears to the ASHC and US's office or DOS' office (where applicable) that there is a significant risk of harm to other persons, they may advise the Case facilitator to follow a formal procedure, irrespective of the wishes of the complainant. In such an event the complainant must be advised accordingly and the ASHC, in consultation with the US's office or DOS' office must prepare a written recommendation to the University Top Management. The recommendation shall include (but not be limited to) the following:
  - i. A description of the alleged sexual harassment or assault;
  - ii. The complainant's reasons for his/her unwillingness to pursue the matter further or to be called as a witness;
  - iii. Compelling reasons in support of a formal procedure.
- m) No victim of sexual harassment shall be required to lodge a complaint to the person who is a suspect in the matter. The complaint should be addressed to the next best alternative.
- n) This policy shall not compel anyone to report cases of sexual harassment. The decision to lodge a complaint shall be fully vested in the victim who shall be allowed to fully exercise their right. The only exception shall be in cases where failure to report may result in serious harm to the victim or others.



7.1 An informal procedure is a process where the victim wishes for something to be done but is not ready to lodge a formal complaint. It is a process in which the relationship between the complainant and the alleged perpetrator is explored by the ASHC and with the consent of both. The aim is to reach an amicable settlement or resolution of a complaint in a manner that is satisfactory to both the complainant and alleged perpetrator. The choice to pursue informal proceedings shall not in any way diminish the force of the original complaint. If an amicable settlement or resolution is reached, then the complainant shall not pursue formal proceedings after the conclusion of informal proceedings.

7.2 The alleged perpetrator has the right to refuse participation in informal proceedings and may exercise this right during any stage of the informal process. No negative inference shall be drawn from a refusal to consider, participate or withdraw from the informal process.

7.3 An informal procedure may not take place if the ASHC in consultation with University Secretary's office or Dean of Students' office believes that there are compelling reasons for the complaint to be of a serious nature.

7.4 In an informal procedure only the following information is recorded:

- a) The fact that the informal procedure took place;
- b) The names of the participants;
- c) The date, time and location of the alleged incident;
- d) The outcome of the informal procedure.

7.5 Informal proceedings require the written consent of both the complainant and the alleged perpetrator, and

- a) The availability and implications of informal proceedings shall be explained to the complainant by the appointed case facilitator before such proceedings begin;
- b) With the consent of the complainant preparatory interviews with the alleged perpetrator may be held in the presence or absence of the complainant and with any other person or persons that may provide information to assist with the informal process;
- c) The structure, procedure and facilitation of any informal procedure will be agreed upon beforehand by the case facilitator, complainant and alleged perpetrator.

7.6 The informal procedure may include: -

- a) An approach to the alleged perpetrator with or without revealing the identity of the complainant (depending on the choice of the complainant) with information that certain forms of conduct constitute sexual harassment;
- b) A discussion where the objective is to give the alleged perpetrator an opportunity to apologise. The terms, conditions and acceptance of such an apology will be facilitated by the Case Facilitator;

- c) The presentation of the case in confidence to a group of not more than four persons (including the Case Facilitator), to consider suggestions and to make recommendations that may achieve a resolution based on an agreement between the alleged perpetrator and the complainant. The choice of participants in the discussion will be at the discretion of the Case Facilitator in consultation with the Chairperson of the ASHC.
- 7.7 Every endeavour must be made to conclude the informal procedure within twenty-one (21) days of the incident being reported to the ASHC.  
Strict confidentiality regarding the process, participants and report will be maintained throughout this process.
- 7.8 Alternatively an informal complaint may be made to any academic member of staff, personal tutor, Administrator or Work supervisor. It is made in those cases where the victim wishes for something to be done (e.g. warn the harasser or transfer the harasser to another department or change the victim's dissertation supervisor) but is not ready to lodge a formal complaint. In any case, the alleged perpetrator must be notified of the complaint lodged against him/her. An informal complaint may be put on the record of the accused party with their consent and may be used in future as evidence of repeated unwanted conduct should the need arise.
- 7.9 In situations where the accused party does not want the complaint placed on their file record the ASHC will forward the matter to the TMC to be handled in the formal process as the settlement will have failed.
- 7.10. Regardless of the outcome of the Informal process in all circumstances for the finality of the process, the ASHC will make a report to the TMC with its recommendations so that the TMC may put the same into effect.



- 8.1 A complainant wishing to follow a formal procedure, he or she shall advise the case facilitator of their intention, present a written statement which should include the date, time and place of the incident(s), the behaviours and person(s) involved in the incident(s), his or her response to it, and the names of any witnesses to it. The formal processes for the presentation of the complainant's case within University Disciplinary Processes for staff and for students will be initiated through the ASHC
- 8.2 A complainant may choose to initiate formal proceedings, either with or without first following an informal procedure. The purpose of formal proceedings is to test the complainant's allegations through the disciplinary process.
- 8.3 If a complainant, following an informal procedure that does not result in a mutually acceptable outcome, does not wish to follow a formal procedure, the case facilitator will establish whether the complainant requires any further advice or support as contemplated in (the section dealing with the ASHC).
- 8.4 If the complainant wishes to proceed with a formal procedure, he or she shall advise the case facilitator of this, and prepare and sign a written statement which should include the date, time and place of the incident(s), the behaviours and person(s) involved in the incident(s), his or her response to it, and the names of any witnesses to it.
- 8.5 The formal processes for the presentation of the complainant's case within University Disciplinary Processes for staff and for students will be initiated through the ASHC through a detailed report of findings and recommendations to the DOS for students and US for staff and third parties as seen below.
- 8.6 For Students

Where the formal procedure is to be followed, the ASHC will report the matter to the Dean of Students and the matter will be dealt with in accordance with the terms of the existing University Disciplinary regulations for students. The ASHC through the Chairperson or any representative and the Case Facilitator will provide such assistance to the Dean of Students and the Students Disciplinary Committee when required.

- 8.7 For Staff Members

Where the formal procedure is to be followed against a staff member, the existing approved disciplinary procedures for staff will be used in accordance with the valid Human Resource Manual at the time. The University Secretary through the Director of Human Resource may consult the ASHC

and Case Facilitator before instituting disciplinary action for sexual harassment. The ASHC through the Chairperson or any nominated member and Case Facilitator shall assist the management representative where this assistance is required.

#### 8.8 Employees or agents of contracted-in Third parties

Where the formal procedure is to be followed, the disciplinary procedures agreed between the University and the contracting-in third party will be used. The ASHC will offer such assistance to the University Secretary and the management of the third party concerned as may be required.



Remedies shall be calculated to make good the wrong done. The ASHC shall be guided by the existing laws of Uganda, rules and regulations of the University as and where applicable. Possible resolutions of the formal or informal complaints to recommend to the TMC to include but are not limited to:

- a) A finding that the University's Sexual Harassment Policy was not violated and dismissal of the charge;
- b) If the charges are proved to have been malicious the person who lodged the complaint shall be reprimanded by the disciplinary committee
- c) A finding that the University's Sexual Harassment Policy has been violated, leading to the imposition of disciplinary action as determined and recommended by the Disciplinary Committee to the University Top management. Disciplinary actions for University members and employees can include oral or written reprimands, a recommendation for suspension without pay and termination.
- d) For students, disciplinary actions can include probation, bars on the issuance of transcripts, grades, degree or readmission or any other penalty prescribed by the University disciplinary committee for students. Disciplinary actions shall not rule out handing over criminal cases to court or the police for handling according to laws of Uganda
- e) The University shall ensure that disciplinary action taken is commensurate with the offence, stops the harassment, and ensures that the harassment does not re-occur and create an environment free of sexual harassment.
- f) A no-contact order shall be issued by the University Top Management on the recommendation by the ASHC. This is intended to protect a complainant from sexual harassment, or the possibility of sexual harassment, whether or not a formal disciplinary process is instituted or contemplated. Violation of a no-contact order constitutes serious misconduct and may be subject to disciplinary action if proved to be breached in accordance with the disciplinary rules of both staff and students depending on the offender.



The complainant or alleged perpetrator will have the right to appeal directly to the University Top Management or the University Council as seen below.

- a) Failure to reach an amicable settlement or resolution in an informal procedure the complainant or alleged perpetrator will have the right to appeal directly to the University Top Management within twenty-one (21) days of the conclusion of that process who will assess the matter and take a decision to refer the matter to the Students Welfare Committee or the Appointments Board through their relevant committees in the case of student or staff respectively;
- b) Following the formal procedure, an aggrieved party may appeal a decision of the Disciplinary Committee. Such appeal shall be requested in writing to the University Council within twenty-one (21) days of such decision.





## 11.

## POLICY INTERPRETATION

- a) This Policy shall, not override any Act, Statutory Instrument, Instructions or guidelines issued by the Government of Uganda from time to time. It shall, therefore, be interpreted in the context of existing national and international laws on sexual harassment as well as other institutional rules and regulations.
- b) The Accounting Officer with the technical guidance of the university legal office shall have the power to give interpretation or guidance on any matter, paragraph, clause or terminology in this policy that is deemed to be misleading, ambiguous or whose meaning is not clear or not clearly understandable to any person, group or section of users.
- c) In case of any doubts of the Accounting Officer's interpretation, the final recourse for interpretation of any matter, paragraph, clause or terminology shall be with the University Council through the appropriate committee(s).
- d) The University Council shall from time to time when deemed necessary issue guidelines to fill the gaps in this policy.

## 12.

## POLICY MONITORING AND EVALUATION

Effective institutional arrangement for monitoring and evaluation are key components for achieving the objectives of this policy. This can only be achieved by instituting an effective mechanism for monitoring and evaluating the system to ensure adherence to this policy. To appraise the steps taken and the success in the implementation of the policy, the University Management shall:

- a) Establish a committee to monitor and evaluate the performance of the University in implementing this policy;
- b) Put in place appropriate monitoring and evaluation systems to ensure that the necessary measures are taken promptly;
- c) Put in place monitoring indicators with time frames to measure the implementation process. The following are some of the indicators:
  - Cases reported and resolved
  - Training and sensitization workshops held
  - Research activities carried out
- d) Undertake to review the policy from time to time based on informed research ;
- e) Put in place a forum for receiving views from members of the university regarding the policy.



**13.** **POLICY REVIEW**

The Policy will be reviewed in line with the University strategic plan and also to take into account emerging issues and trends.

## KEY REFERENCES

1. The Constitution of the Republic of Uganda, 1995;
2. The Employment Act of the Republic of Uganda Act 6, 2006;
3. The Universities and Other Tertiary Institutions Act, 2001;
4. The Employment (Sexual Harassment) Regulations 2011, S.I No.6 of 2011;
5. The MUST Human Resource Manual 2018;
6. MUST HIV/AIDS Institutional Policy 2004 (reviewed 2019)
7. The MUST Gender Policy, 2019 (to be institutionalized)
8. Makerere University, Policy and Regulations on Sexual Harassment Prevention, 2006
9. American University, Discrimination and Sexual Harassment Policy amended, August 31, 2017
10. Report on the investigation of sexual harassment at Makerere University, June 2018
11. Ruzaaza. G. and Kyagaba E (2007) HIV/AIDS at the Work/Study – A situation analysis



## ANNUAL BUDGET ESTIMATES

	<b>Activity</b>	<b>Output</b>	<b>Amount</b>
1	Develop, print IEC materials	1,000 flyers/brochures, stickers and 1 banner	1,000,000
		100 T/Shirts	2,500,000
	<b>Sub-total</b>		
2	Working committee meetings	Venue, Meals and Refreshments	3,000,000
	Communication, Stationery	Assorted stationery and airtime	800,000
	<b>Sub-total</b>		
3	Sensitization	Workshops	3,000,000
		Skills training	1,350,000
	<b>Sub-total</b>		
	<b>Grand Total</b>		
		<b>11,650,000</b>	

## **ANNEXES**

### **ANNEX 1: FACTS ABOUT SEXUAL HARASSMENT**

- Both men and women can be victims of sexual harassment.
- Either a man or a woman can be a harasser. Accordingly, illegal sexual harassment may be found even where the victim is the same sex as the harasser.
- The person complaining of sexual harassment does not have to be the person to whom the conduct was directed – it can be someone else who has been a witness to the harassment.
- Harassment can occur at work, at institution-sponsored events, or between co-workers away from work.
- Harassment situations can be peer-against-peer, supervisor-against-employee, or third-party-against employee (such as when a customer or supplier harasses a worker).
- There are several types of sexual harassment.

#### **When is sexually based conduct sexual harassment?**

The attraction between employees should be a private matter between the employees, so long as it does not cross the boundary between welcome conduct and unwelcome conduct.

To determine whether sexual conduct in the workplace amounts to sexual harassment, distinctions must be made between sexual advances that are:

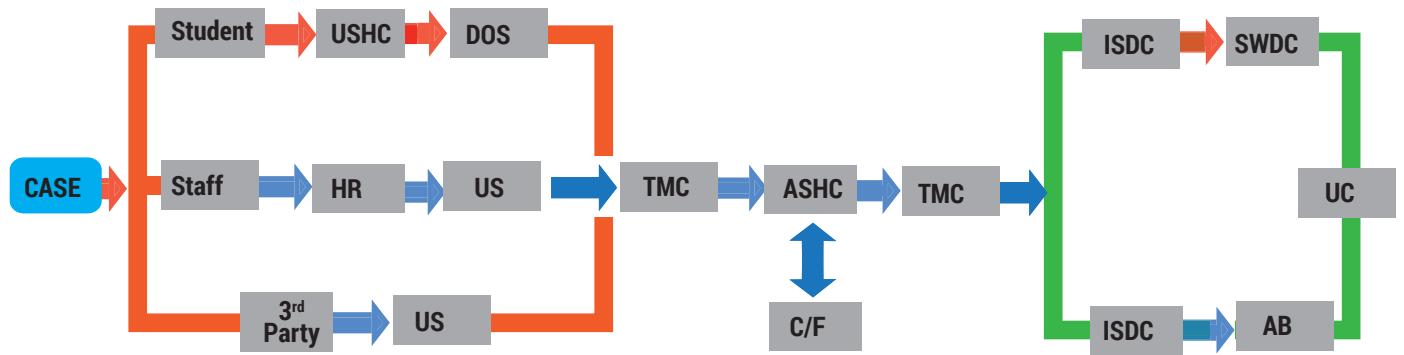
- Invited: if the conduct is welcome, harassment has not occurred but could cause difficulties down the line if an office romance goes sour. In this case, if one of the parties is a supervisor or lecturer of the other, the relationship should be declared to the management which shall address any conflict of interest issues that may arise through administrative measures. Where this is not declared and later found out, the parties will face disciplinary action in line with the University rules and procedures.
- Uninvited but welcome: again, while there is no harassment, the potential for harassment could exist if a relationship between two employees breaks up.
- Offensive but tolerated: just because an employee does not make a complaint does not mean that harassment is not occurring – if you see it or hear of it, put a stop to it.
- Flatly refused: this is clearly harassment and should be handled accordingly

## **ANNEX 2: POLICY GUIDING PRINCIPLES**

Implementation and enforcement of this policy shall be based on the following principles:

- a) Any complaint lodged under this policy shall be treated with diligence, fairness, justice and in line with the guidelines hereto attached.
- b) The University Legal Officer and the University Secretary shall serve as resource people with regard to the interpretation of the guidelines.
- c) All complaints of sexual harassment shall be treated with confidentiality to the extent to which it is practically possible. Only those individuals necessarily involved in the investigations and decisions regarding the resolution of the complaint should be provided access to information regarding any allegation of sexual harassment.
- d) Anonymous complaints shall be investigated for merit and disposed of accordingly.
- e) In any investigations, the alleged perpetrator of the sexual harassment offence must be promptly made aware of the complaint and the identity of the complainant(s) and the evidence against them.
- f) Investigations must be promptly and thoroughly conducted.
- g) Determination of whether conduct amounts to sexual harassment shall be on a case-by-case basis.
- h) The determination of whether an environment is 'hostile' shall be based on all the circumstances, which include frequency of the conduct, the severity and whether it is threatening or humiliating.
- i) Both the complainant and the respondent shall be notified of the outcome of the investigation
- j) If the respondent is found guilty of sexual harassment, the punishment shall be executed through the appropriate channels of the University.
- k) In any situation where a student is said to be harassing a member of staff e.g. a lecturer, the member of staff is considered to be in a better position to stop the harassment because they have an upper hand. They better placed to tell the student to stop it or bring it up at the departmental level for solution. Staff (lecturers) should be seen to transmit values other than knowledge only).

## Annex 3: Schema of the Reporting and Handling Process for Sexual Harassment Cases at MUST





P.O. Box 1410, Mbarara  
Uganda



[www.must.ac.ug](http://www.must.ac.ug)



+256 4854 21387



[mbararaUST](#)



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