



## **Creating a Sexual Harassment-Free Campus**

### **An Operational Guide for Academic & Non-Academic Units**

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

This operational guide aims to provide Heads/Line Managers and departmental staff with information on:

#### **A. Preventing Sexual Harassment from Occurring on Campus**

- I. Your role as Head/Line Manager (*page 1*)
- II. Understanding What is Sexual Harassment (*page 2*)
- III. Understanding CityU’s Legal Liability (*page 4*)
- IV. What You Can Do to Raise Understanding and Awareness of Staff and Students on Sexual Harassment (*page 5*)

#### **B. Dealing with Sexual Harassment Enquiries and Complaints**

- I. Understanding the University’s Provisions for Dealing with Enquiries and Complaints (*page 6*)
- II. What to Do If You are Asked to Help (*page 7*)
- III. How to Contact Us for Advice and Help (*page 8*)

All information provided herewith is readily available on the website of the **Committee Against Sexual Harassment (CASH)** appointed by the President in accordance with the Policy to provide guidance to staff and students (<http://www.cityu.edu.hk/cash/>).

*Issued by Committee Against Sexual Harassment (CASH)*

*Last updated: March 2021*



## A. Guide on Preventing Sexual Harassment from Occurring on Campus

<b>I. Your Role as Head/Line Manager</b>	<b>Reference</b>
<p><b>The following are stated in the University's Sexual Harassment Policy and Procedures (Policy):</b></p> <p><b>Clause 5.5</b> 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.</p> <p><b>Clause 5.6</b> It is vital that all Heads of Departments and Line Managers should be familiarised with the University's Sexual Harassment Policy and Procedures and take practical steps in their respective areas to prevent harassment before it starts.</p> <p><b>Clause 5.7</b> 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.</p>	<ul style="list-style-type: none"><li>• <b>Policy of CityU</b> <i>[CASH website&gt; Policy and Procedures]</i></li></ul>



II. Understanding What is Sexual Harassment	Reference
<p>➤ <b>The legal definition of “sexual harassment” includes the following situations:</b></p> <p>A person (howsoever described) sexually harasses another person if:</p> <p>a. the person</p> <p>i) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to that person; or</p> <p>ii) engages in other unwelcome conduct of a sexual nature in relation to that person;</p> <p>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</p> <p>b. 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.</p> <p>Under the SDO, sexual harassment covers acts of sexual harassment of both men and women as well as sexual harassment to persons of the same sex.</p> <p>➤ <b>What is not sexual harassment?</b></p> <p>Interaction of a sexual nature, flirtation, attraction or friendship which is invited, mutual, consensual and reciprocated.</p> <p>➤ <b>Forms of sexual harassment:</b></p> <p>Physical, visual, verbal or non-verbal conduct of a sexual nature which is uninvited and unwelcome.</p> <p>➤ <b>Single incident counts:</b></p> <p>The unwelcome behaviour needs not be repeated or continuous. A single incident can also amount to sexual harassment.</p> <p>➤ <b>What is sexually hostile or intimidating environment for staff and students?</b></p> <p>Any unwelcome conduct of a sexual nature that interferes with the performance or affects the enjoyment of staff in their working environment or students in their learning environment. The behavior does not need to be directly or consciously targeted at an individual staff/student, e.g. display of explicit or pornographic materials, sexual banter, crude conversation, sexually offensive jokes or activities.</p>	<ul style="list-style-type: none"> <li>• Sex Discrimination Ordinance (SDO)</li> <li>• Policy of CityU</li> <li>• CASH website</li> <li>• Equal Opportunities Commission (EOC) website [<i>CASH website &gt; Community Resources &gt; Equal Opportunities Commission</i>]</li>   <li>• EOC website</li>   <li>• EOC website</li>   <li>• EOC website</li>   <li>• EOC website</li> </ul>



II. Understanding What is Sexual Harassment	Reference
<p>➤ <b>Examples of sexual harassment</b></p> <ul style="list-style-type: none"> <li>• Uninvited or unwelcome physical contact or gestures</li> <li>• Unwelcome request for sex</li> <li>• Unwanted invitations</li> <li>• Sexual comments or jokes</li> <li>• Intrusive questions or insinuations of a sexual nature about a person’s private life</li> <li>• Displaying or distributing offensive or pornographic materials such as posters, pinups, cartoons, graffiti or calendars</li> <li>• Offensive communications of a sexual nature (letters, phone calls, social media messages, etc.)</li> <li>• Staring or leering at a person or at parts of his/her body</li> <li>• Touching or fiddling with another person’s clothing, e.g. lifting up skirts or shirts, or putting hands in the person’s pocket</li> </ul> <p>➤ <b>Scenarios of creating sexually hostile or intimidating environment</b></p> <ul style="list-style-type: none"> <li>• Anyone uses sexually suggestive cartoons in teaching a subject not related to sex.</li> <li>• A group of students hanging out somewhere on campus rate female students who are playing/ chatting/ staying there. As a result, some of the female students avoid staying in the area.</li> <li>• In the staff room where there are both female and male colleagues, some colleagues display nude pictures as screen savers on the computer; or some like to exchange obscene jokes with each other in the presence of other colleagues of the opposite sex.</li> <li>• Staff members make sexual jokes or discuss their sex lives within earshot of other staff/ students on campus.</li> <li>• A group of students hijack classroom discussion and turn it to sexual topics. Students of the opposite sex feel offended and do not want to join the discussion.</li> </ul>	<ul style="list-style-type: none"> <li>• EOC website</li> <li>• CASH website</li> <li>• CASH booklet on “Creating a Sexual Harassment-Free Campus”</li>   <li>• EOC website</li> </ul>



III. Understanding CityU’s Legal Liability	Reference
<p>➤ <b>Liability of the individual (e.g. staff, students and others)</b></p> <p>Sexual harassment, which is an unlawful act, would entail civil liability. Some behaviour (such as indecent assault, stalking, crank calling, etc.) would also bear criminal consequences at the same time. Students and staff, voluntary helpers, contract workers/ service providers/ agents of a school are personally liable under the law for their own acts of sexual harassment. Personal liability may also be incurred if a person presses/ instructs someone to sexually harass another, or knowingly aids another in sexual harassment (e.g. joining someone in telling obscene jokes).</p> <p>➤ <b>Liability of CityU/units as an employer</b></p> <p>The University and its units must take “reasonably practicable steps” to prevent sexual harassment; otherwise, they might be held vicariously liable for the unlawful acts of sexual harassment committed by employees in the course of their employment, even if they are not aware of the sexual harassment incidents.</p>	<ul style="list-style-type: none"> <li>• EOC website</li>   <li>• EOC website</li> </ul>
<p>➤ <b>Liability of CityU/units in case a student commits sexual harassment</b></p> <p>In general, the University and its units would not be held vicariously liable for unlawful acts committed by students since they are not employees or agents of the school. Nevertheless, they may incur direct liability under some circumstances. For example, if a complaint of sexual harassment is received alleging student(s) organising or participating in an extra-curricular activity has committed an act of sexual harassment, but the University takes no remedial actions and continues to allow the students to engage in the alleged unlawful activity held on CityU campus, arguably the University, together with these students, are engaging in a conduct which creates a sexually hostile or intimidating environment for other students. It is a form of sexual harassment prohibited under the SDO.</p>	<ul style="list-style-type: none"> <li>• EOC website</li> </ul>
<p>➤ <b>Liability of CityU/units if students are harassed by an external body (e.g. coaches in extra-curricular activities)</b></p> <p>If a coach is hired or arranged to be hired by the University to carry out an extra-curricular activity as an “agent”, CityU and its units would become a “principal” under the circumstances. If no reasonably practicable steps (e.g. notify the coach either in writing or verbally that sexual harassment is prohibited and would not be tolerated) have been taken to prevent sexual harassment from occurring, the University might still be vicariously liable for the unlawful act as the principal. In this connection, once the relationship of agent and principal is established, CityU and its units should take</p>	<ul style="list-style-type: none"> <li>• EOC website</li> </ul>



<b>III. Understanding CityU's Legal Liability</b>	<b>Reference</b>
reasonably practicable steps to prevent sexual harassment from occurring.	

<b>IV. What You Can Do to Raise Understanding and Awareness of Staff and Students on Sexual Harassment</b>	<b>Reference</b>
<ul style="list-style-type: none"> <li>➤ Provide the Policy, the handling procedures of complaints and the related disciplinary actions on sexual harassment to new staff as a standard part of induction/orientation;</li> <li>➤ Regularly alert staff and students to the Policy, e.g. by email circulation and/ or discussion / reinforcement at staff meetings, and CityU's standpoint that it will not condone any act of sexual harassment committed by staff and students;</li> <li>➤ Display posters, notices and educational and promotional materials provided by CASH to disseminate related information; and <i>(please contact CASH Secretariat at tel no. 3442 9026 if in need of more promotional materials)</i></li> <li>➤ Conduct awareness raising sessions for staff and students on sexual harassment issues and encourage departmental staff assisting in handling sexual harassment complaints to receive appropriate training organised from time to time by the University to enable sensitive treatment of such cases.</li> </ul>	<ul style="list-style-type: none"> <li>• EOC website</li> <li>• CASH website</li> </ul>



## B. Guide on Dealing with Sexual Harassment Enquiries and Complaints

I. Understanding the University's Provisions for Dealing with Enquiries and Complaints	Reference
<p><b>The following are provided in the Policy:</b></p> <p><b>Clause 3.2</b> A sexual harassment complaint can be classified as either <i>formal</i> or <i>informal</i>, 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 preference of complainant.</p> <p><b>Clause 3.3</b> 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. The handling of informal complaints would not involve any investigation (e.g. fact-finding, decision making or judgment) by the University. The informal mechanism may include the complainant seeking mediation help from the University via CASH.</p> <p><b>Clause 3.4</b> In the event the complaint could not be resolved through the informal mechanism (e.g. when the complainant does not agree with the respondent's account of the incident, etc.), or at any time when the complainant requests an investigation into his/her allegation, the complaint should be dealt with in a formal manner according to prescribed procedures.</p> <p><b>Clause 3.6</b> The procedures for handling informal and formal sexual harassment complaints are detailed in Appendices II (a), (b) and III (a), (b) [<i>of the Policy</i>] respectively.</p> <p><b>Clause 4.1.6</b> 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.</p> <p><b>Appendix II (a) Clause 5</b> Depending on the identity (<i>staff or student</i>) of the alleged harasser, complaints of sexual harassment should be lodged with the following respective personnel (the <i>Designated Complaint Recipient</i>):</p> <ul style="list-style-type: none"> <li>(a) the Director of Human Resources (or nominee) when the alleged harasser is a staff member; or</li> <li>(b) the Dean of Students (or nominee) when the alleged harasser is a student at or below undergraduate level; or</li> <li>(c) the Dean of Graduate Studies (or nominee) when the alleged harasser is a student at postgraduate level.</li> </ul>	<ul style="list-style-type: none"> <li>• Policy of CityU</li> <li>• CASH website</li> </ul>







III. How to Contact Us for Advice and Help	Reference
<p><b>Whenever necessary, you are welcome to seek advice through the following channels as soon as possible about how to handle a sexual harassment enquiry or complaint that has been brought to your attention:</b></p> <ul style="list-style-type: none"><li>➤ CASH hotline: 3442 9000 (Monday to Friday, 09:00 – 17:00)</li><li>➤ CASH email: <a href="mailto:cash@cityu.edu.hk">cash@cityu.edu.hk</a></li><li>➤ Director of Human Resources if the alleged harasser is a staff member</li><li>➤ Dean of Students if the alleged harasser is a student at or below undergraduate level</li><li>➤ Dean of Graduate Studies if the alleged harasser is a student at postgraduate level</li></ul>	<ul style="list-style-type: none"><li>• CASH website</li><li>• Policy of CityU</li></ul>