



University of Fort Hare  
Tug thixo: Excellence

**TITLE: POLICY ON HARASSMENT, SEXUAL HARASSMENT AND GENDER BASED VIOLENCE**

<b>POLICY NUMBER:</b>		<b>RECOMMENDED BY:</b>	<b>SENATE</b>
<b>DATE:</b>	<b>11 SEPTEMBER 2019</b>	<b>MINUTE ID NO:</b>	<b>(S/40/2019)</b>
<b>EFFECTIVE DATE:</b>	<b>13 SEPTEMBER 2019</b>	<b>NUMBER OF PAGES</b>	<b>31 PAGES</b>
<b>REVISION DUE DATE:</b>	<b>SEPTEMBER 2022</b>		
<b>REFER QUESTIONS TO: Deputy Registrar: Governance &amp; Legal Services</b>			

**APPROVED BY:**

Professor Loyiso G. Nongxa  
**ADMINISTRATOR:**  
**UNIVERSITY OF FORT HARE**

13 SEPTEMBER 2019  
**Date**

## UNIVERSITY OF FORT HARE POLICIES AND PROCEDURES

### **POLICY ON HARASSMENT, SEXUAL HARASSMENT AND GENDER BASED VIOLENCE**

#### **1. PREAMBLE**

1.1 The University of Fort Hare (“UFH”) Charter of Ethical Principles and Values (‘the Charter’) guides the UFH’s Vision, Mission, Corporate Goals and Strategic Objectives. The Charter serves as a reference point for all its academic and administrative policies, programmes and procedures and it binds the entire University of Fort Hare (‘the UFH’) by shared ethical principles and values. This GBV Policy (‘the Policy’) aims to give expression to the Charter and to regulate and express the policy, programmes and procedures relating to the prevention and management of incidents of Harassment, Sexual Harassment and Gender Based Violence (‘GBV’) at the UFH and is to be read with and interpreted as an extension of other relevant Policies already in place at the UFH.

1.2 GBV is offensive, traumatic and constitutes an affront to human dignity. The UFH will not tolerate any form of GBV. The UFH has a duty to create and maintain a secure, caring and nurturing institutional environment where everyone is able to pursue their studies, careers, duties and other activities free from all forms of GBV. GBV undermines morale and adversely affects the ability of staff and students to achieve their full potential.

1.3 Everyone has a duty not to engage in inappropriate behaviour and to refrain from Harassment, Sexual Harassment or GBV at the UFH. Every opportunity should be made available for victims of Harassment, Sexual Harassment or GBV and witnesses thereof to report such behaviour. The UFH, by way of its management, has a responsibility to act immediately when becoming aware of incidents of Harassment, Sexual Harassment or GBV or of complaints of Harassment, Sexual Harassment or GBV and to act appropriately as required by the Policy under such circumstances.

1.4 The UFH has therefore formulated the Policy that must be interpreted in the context of other UFH policies and statements. The Policy seeks to:

- formalise the UFH's position on GBV;
- create a comprehensive framework to address and prevent incidents of GBV;
- manage the UFH's response to GBV;
- establish a safe and enabling institutional environment, free from GBV for all UFH community members;
- establish a common understanding of what constitutes GBV;
- ensure that all staff and students have applicable and appropriate information about GBV and ensure that the procedures in resolving matters are known, easily accessible and that appropriate reporting lines are followed;
- implement a zero-tolerance approach to GBV;
- effectively implement the GBV Policy;
- ensure an expeditious fair, efficient, sensitive, confidential and just response to instances of GBV and effective remedies against GBV;
- allow that complaints be investigated by the appropriate neutral party;
- clarify disciplinary procedures for perpetrators of GBV;
- ensure support for victims of GBV and guarantee that complainants be protected against victimisation or reprisals for lodging grievances/ complaints in good faith and that alleged offenders be protected from false accusations;
- maintain confidentiality during the reporting and investigation of Harassment, Sexual Harassment or GBV and during the possible subsequent disciplinary enquiry;
- clarify institutional accountability and effective implementation of the Policy; and
- ensure that Policy statements on GBV are communicated effectively, and are easily accessible to all relevant persons;
- elaborate on any other relevant policies.

1.5 All UFH staff and students shall have responsibility to uphold the Policy. Managers shall have a particular duty to ensure that areas within their jurisdiction are free from GBV. The UFH will take appropriate action in accordance with the Policy when instances of GBV that affect the UFH and that are brought to its attention.

## **2. RELEVANT STATUTE AND COMPLIANCE**

The following should be read in conjunction with the Policy:

- Constitution of the Republic of South Africa, 1996;

- Amended Code of Good Practice on the Handling of GBV cases in the Workplace, Notice 1357 of 2005;
- Code of Good Practice on the Handling of Sexual Harassment Cases, Notice 1367 of 1998, Labour Relations Act 66 of 1995;
- Criminal Law Sexual Offences and Related Matters) Act 32 of 2007;
- Employment Equity Act 55 of 1998;
- Higher Education Act 101 of 1997;
- National Health Act 61 of 2003;
- Prevention of Family Violence Act 133 of 1993;
- Protection from Harassment Act 17 of 2011, and the Regulations (No 26357), 12 April 2013;
- UFH Mission Statement and Core Values;
- UFH Code of Conduct (of the University of Fort Hare);
- UFH Conditions of Employment Policy;
- UFH Employee Relations Policy and Procedures;
- UFH General Prospectus;
- UFH Student Disciplinary Rules and the UFH Student Code of Conduct;
- UFH Staff Retention Policy;
- UFH Promotions Policy;
- UFH Abscondment Policy and Procedures;
- UFH Privacy Policy;
- ICT Policies;
- Teaching and Learning Policy;
- Institutional Regulatory Codes;
- Induction Procedures;
- Any other relevant UFH Policy.

### 3. DEFINITIONS

In the policy, unless stated otherwise:

**“Alleged Perpetrator”** means any person alleged to have committed a transgression of the Policy;

**“Complainant”** means any person alleging any transgression of the Policy, a person who lodges a complaint under the Policy, or a person against whom an act or acts of GBV as defined in the Policy has or have allegedly been perpetrated;

**“Confidentiality”** means ensuring that information is accessible only to those who are authorised to have access to it;

**“Conflict of interest”**, for the purposes of the Policy, means any situation in which a member of staff or a student has an actual or potential romantic or sexual relationship that may impact negatively on the integrity or objectivity of the University, thereby causing prejudice to the University or undue or improper benefit to the individual, including situations where a position of authority may be used to influence or to make decisions that lead to any form of financial or personal gain for that member or for his or her relations or financial or other personal considerations may compromise, or may have the appearance of compromising, a member’s professional judgement in conducting or reporting research. Relationship interest (includes “relations”) means a spouse or a romantic or sexual partner and any other person with whom the member has a romantic or sexual relationship which is likely to appear to a reasonable person to influence his/her objectivity;

**“Consent”** refers to informed, voluntary and explicit communication of agreement or an affirmatively communicated willingness to participate in a particular sexual activity or behaviour, expressed either by words or clear, unambiguous actions. Consent cannot be procured by the use of physical force, compelling threats, intimidation, coercion or any other controlling behaviour;

**“Intimate partner violence”** means any act of violence committed between persons within an intimate relationship, including (a) physical abuse; (b) sexual abuse; (c) emotional, verbal and psychological abuse; (d) economic abuse; (e) intimidation; (f) GBV; (g) stalking; (h) damage to property; (i) entry into the complainant's residence without consent, where the parties do not share the same residence; or (j) any other controlling or abusive behaviour towards a complainant, where such conduct harms, or may cause imminent harm to, the safety, health or wellbeing of the complainant;

**“Gender Based Violence”** means any act of violence, whether persistent or isolated, directed against any person on the basis of their gender, sex, marital status, or sexual orientation that results in or is likely to result in physical, sexual or psychological harm or suffering and includes but is not limited to intimate partner violence, Harassment, Sexual Harassment, sexual assault, rape, coercive sexual practices and harmful customary or traditional practices such as female genital mutilation and honour crimes;

**“Harassment”** is defined, in terms of the Protection Against Harassment Act, Act 17 of 2011, as either directly or indirectly engaging in conduct that the harasser knows or ought to know causes harm or inspires the reasonable belief that harm may be caused to the complainant or a related person by unreasonably:

(a) following, watching, pursuing or accosting of the complainant or a related person, or loitering outside of or near the building or place where the complainant or a related person resides, works, carries on business, studies or happens to be;

(b) engaging in verbal, electronic or any other communication aimed at the complainant or a related person, by any means, whether or not conversation ensues; or

(c) sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant or a related person or leaving them where they will be found by, given to or brought to the attention of, the complainant or a related person; or amounts to GBV of the complainant or a related person;

**“Harm”** is defined, in terms of the *Protection Against Harassment Act, Act 17 of 2011* as any mental, psychological, physical or economic harm;

**“Head of Department”** means an employee designated as the Head of a Department, Unit or Division, or a designated alternate.

**“Interest Groups”** mean any stakeholder with a vested interest(s) in the reporting, investigation, monitoring and outcome of alleged incidents of GBV;

**“LRA”** means the Labour Relations Act 66 of 1995;

**“Manager”** means any person placed in a position of authority and/or to who employees report or who has been appointed as such at the UFH and specifically, but not limited to, includes the UFH Council Members, the Vice-Chancellor, Deputy Vice-Chancellors, the Chief Finance Officer, Directors, the Dean of Students, the Registrar and Deputy Registrar, Dean’s, Deputy Dean’s, Heads of Departments, Managers and the President of the Students Representative Council;

**“PAIA”** means the Promotion of Access to Information Act 2 of 2000 (as amended);

**“Protected Disclosure”** means a report or disclosure made by a person in good faith and substantially in accordance with the procedure prescribed herein aimed at reporting;

**“Rape”** means an unlawful and intentional act of sexual penetration, as defined in the Criminal Law Sexual Offences and Related Matters) Act 32 of 2007, between two or more persons, without the consent of one of those persons, including acquaintance, spousal and date rape where the complainant submits or is subjected to an act of sexual penetration as a result of:

- The use of force or intimidation by the alleged perpetrator against the complainant, another person or the property of these persons;
- A threat of harm, real or perceived, by the alleged perpetrator against the complainant, another person or the property of these persons.
- An abuse of power or authority such that the complainant is inhibited from expressing her/his resistance or unwillingness to participate in the act;
- false pretences or by fraudulent means;
- the inability of the complainant to appreciate the nature of the act of sexual penetration; including where the complainant is at the time of the commission asleep or unconscious, in an altered state of consciousness including but not limited to, under the influence of medicine, drugs, alcohol, or other substances, to the extent that her/his ability to consent is adversely affected, where the person is mentally disabled or a child below the age of legal consent;

“**SAPS**” means South African Police Service;

“**Senate**” means the Senate of the UFH of Fort Hare;

“**Sexual assault**” means an unlawful and intentional act or attempted act of a sexual nature with another person without that person’s consent in which a person is threatened, coerced, or forced to comply against their will, or is incapable of giving consent or unconscious of the nature of the act;

“**Sexual attention**” means GBV if the behaviour is persisted in, although a single incident of harassment can constitute GBV, and/ or the recipient has made it clear that the behaviour is considered offensive and / or the perpetrator should have known that the behaviour is regarded as unacceptable. It is not only the intention of the alleged harasser that is the issue, but also the complainant's reasonable perception and experience of the alleged harasser's behaviour;

“**Sexual favouritism**” exists where a person who is in a position of authority rewards only those who respond to his/her sexual advances, whilst other deserving persons who do not submit themselves to any sexual advances are denied benefits.

“**Sexual Harassment**” constitutes unwanted, unwelcome, unsolicited and/or unreciprocated conduct of a sexual nature such as unwelcome sexual advances, requests for sexual favours, and other verbal, physical, or non-verbal conduct of a sexual nature. Sexual Harassment include, but is not limited to:

- i. Sexual Harassment means unwanted and deliberate physical contact, including but not limited to inappropriate touching, sexual assault, actual/attempted rape, strip search by opposite sex, kissing and hugging and fondling;
- ii. Verbal Sexual Harassment such as demeaning verbal comments of a sexual nature; subtle or explicit demands for or offers of sexual favours which demand implicitly or explicitly a condition that may affect a decision or other action in respect of student admission, funding, grading or academic progress or carries a condition that may affect a decision or other action in respect of staff recruitment, selection, appraisal, promotion or career progress or carries a condition that may affect a decision or other action in respect of third party contractor's goods or services; unwanted or unwelcome innuendos, suggestions and hints of a sexual nature; and/or comments with sexual overtones which creates an intimidating or offensive and/or hostile learning or working environment that interferes with academic and/or work performance; unwelcome or inappropriate nicknames, derogatory or obscene remarks, unwelcome comments or enquiries about a person's sexual habits, unwelcome telephone calls or e-mails with sexual undertones, unwelcome sex-related jokes or insults, unwelcome graphic comments about a person's body made in their presence and/or directed towards them, non-verbal behaviour such as unwelcome whistling, unwelcome gestures with a sexual meaning, indecent exposure of private parts, persistent and unwelcome flirtation, unwelcome physical contact, a strip-search by or in the presence of the opposite sex, unwelcome display of pornographic or other offensive, derogatory and/or sexually explicit photos, caricatures, designs, objects, slides, movies or other material, *quid pro quo* harassment aimed at influencing a process of employment, promotion, training, discipline, dismissal, salary increments, test/exam marks, qualification for graduation or other educational benefits in exchange for sexual favours, and sexual favouritism where rewards are reserved only for those who respond to sexual advances, unwelcome suggestions or hints, sexual advances, comments with sexual overtones, sex-related jokes or insults;
- iii. Non-verbal Sexual Harassment means, inter alia, the transmission, by any means, electronic or otherwise, or the gratuitous display of sexually explicit written or audio-visual materials; offensive gestures or actions of a sexual nature such as indecent exposure; stalking behaviour such as pursuing or following a person, or non-consensual communication or other contact, including but not limited to unwelcome gestures, indecent exposure, display of sexually explicit pictures and objects, sexually suggestive looks, staring or ogling, suggestive body language and sexually oriented letters;

- iv. Sexual exploitation means taking non-consensual, unjust or abusive sexual advantage of another person, including but not limited to the electronically recording, photographing or transmitting intimate or sexual utterances, sounds, or images without the knowledge and consent of all parties involved; voyeurism (spying on others who are in intimate or sexual situations or in compromising positions); distributing intimate or sexual information about another person without that person's consent; grooming and/or prostituting or trafficking another person.
- v. Special Victimization, which occurs when a person is victimized or intimidated for refusing to submit to sexual advances;
- vi. Grooming, which involves an action or series of actions, which can initially appear to be conducted within the context of the academic project, but are taken with the overall aim of befriending and establishing a psychological and/or material connection with a person in order to facilitate subsequent sexual harassment or sexual assault and/or to hinder the reporting of various acts of harassment or assault. This includes 'online grooming,' which refers to grooming by means of modern-day technology, such as mobile phones and the internet;
- vii. *Quid Pro Quo* Harassment of staff, constitutes a specific form of GBV and occurs where an employer, supervisor, member of management, co-employee or member of the UFH community influences or attempts to influence a person's circumstances (for example engagements, promotion, training, discipline, dismissal, salary increment or other benefit) by coercing or attempting to coerce a member of the UFH community to surrender to sexual advances. *Quid pro quo* harassment includes, but is not limited to attempts to influence the process of employment, punishment for refusing to comply with propositions and rewards for sexual cooperation;
- viii. *Quid Pro Quo* Harassment of students, which occurs when:
  - An alleged perpetrator influences or attempts to influence the admission of a student to the University or access to opportunities within the University, by coercing or attempting to coerce that person to engage in unwelcome sexual conduct or offering special treatment in exchange for unwelcome sexual conduct; and / or
  - An alleged perpetrator influences or attempts to influence the grading, evaluation or professional advancement of the student, by coercing or attempting to coerce them to engage in unwelcome sexual conduct;

- ix. Creation of a Hostile Work or Learning Environment, which occurs where the purpose or effect of the conduct is to interfere with another person's performance at work or study.

**“Sexual intimidation”** refers to threatening another person by committing a sexual act against him/her or engaging in indecent exposure;

**“Sexual misconduct”** refers to any unwelcome or unwanted conduct of a sexual nature, including GBV, assault or violation, whether physical, verbal or non-verbal, by a person of the same or opposite sex; committed without consent or by force, intimidation, threat, coercion or manipulation;

Sexual penetration is defined as includes any act which causes penetration to any extent whatsoever by— (a) the genital organs of one person into or beyond the genital organs, anus, or mouth of another person; (b) any other part of the body of one person or, any object, including any part of;

**“Staff”** means any person who is employed by the UFH, in any capacity whatsoever, including but not limited to a permanent, contract, visiting or exchange academic and administrative and support staff;

**“Student”** means, for purposes of the Policy, a person who has applied for admission or who has been provisionally admitted or who has been admitted or registered to the UFH for the purpose of studying or who has registered for a qualification, including members of UFH committees. A student remains a student until such time as that person graduates or otherwise completes studies, or withdraws from the UFH, or fails to attend or register in any semester, or is excluded and all appeal processes for re-admission have been exhausted and thus refers to any student as per the definition of a Student contained in the General Rules of the UFH, as amended from time to time. Any student of the UFH may not be permitted to graduate if there is an outstanding GBV DC case pending against the student. This issue must be dealt with on application to the presiding officer at the first possible instance.

**“Third Party Contractors”** mean persons who are not in the employ of the UFH, but who have been contracted by the UFH, or any authorised agent of the UFH, for the rendering of services. This shall include but not be limited to employees, agents and sub-contractors, as well as any person who is present at the UFH at the behest of the UFH or any third party contractor.

**“UFH”** means the University Of Fort Hare, and includes any campus of the UFH, as well as any other buildings, premises or sports facilities, which are owned or otherwise occupied by the UFH for the purposes of the activities of the UFH. This includes but is not limited to ‘off-

campus' residences, sports facilities, buildings and premises that are not situated on any campus;

**“Victimisation”** means the re-traumatisation of a person who has been subjected to for example GBV. It includes acts of denying promotion opportunities, subjecting the person to bigger workloads, demotions, unfair and biased performance appraisals, using authority to create an unbearable work environment as well as verbally discrediting the victim;

**“Visitors”** means people who are not staff, students or third party contractors, who are present on any campus, buildings, premises or sports facilities of the UFH at any time and for any reason whatsoever.

#### **4. PURPOSE**

The purpose of the Policy is to establish agreed upon standards of conduct, which would ensure that all staff and students at the UFH are aware of the framework and principles for dealing with GBV at UFH; to eliminate GBV at UFH and to manage incidents of GBV should it occur at the UFH. The Policy is predominantly based on the Code of Good Practice on the Handling of GBV Cases in the workplace (Labour Relations Act 66 of 1995 - section 203(2), the Protection of GBV Act 17 of 2011 and the UFH Code of Conduct.

#### **5. SCOPE OF THE POLICY**

5.1.1 The UFH Code of Conduct states that the UFH will not countenance any form of harassment, Sexual Harassment or GBV of its staff or students in any form. All staff and students are thus responsible for ensuring that the workplace is free from GBV. Any acts of GBV may result in disciplinary action in terms of the UFH Code of Conduct and could, as a result, lead to dismissal.

5.1.2 The UFH Code of Conduct further states that the UFH has a direct interest in the safety of its employees. Physical violence or any perceived threat of violence shall, as a result, be dealt with in accordance with the UFH disciplinary codes and procedures. The UFH Code of Conduct also states that any employee who is aware of prohibited conduct or has concerns regarding his/her safety or the safety of a colleague, client or service provider/supplier should immediately report such concerns to a manager who, in turn, must immediately contact security and the HR. HR must in turn immediately report the matter to the Special GBV Unit. For purposes of the Policy, any employee who is aware of prohibited conduct or has concerns

regarding his/her safety or the safety of a colleague, client or service provider/supplier may also elect to immediately report such concerns to the Specialized GBV Unit or to both parties.

5.1.3 The Rules Applicable to Student Discipline states that breach of any rule or regulation of the University and/or conduct, whether on University premises or not, which is improper, unbecoming or disgraceful or in any way liable to bring discredit upon the University to prejudice the proper conduct of work of the University are considered to be grounds on which a student may be charged with misconduct.

5.1.4 However, the UFH Code of Conduct and the Rules Applicable to Student Discipline does not specifically deal with all issues concerning GBV and it is thus necessary to formulate the Policy on GBV to specifically deal with such offences.

## **5.2 Actions Prohibited by the Policy**

5.2.1 The Policy prohibits and proscribes, in addition to the offences created in the UFH Code of Conduct and the Rules Applicable to Student Discipline, the following conduct:

- GBV by or between any faculty member, staff member or student, including individuals of the same sex, in all academic, educational, extracurricular, athletic and/or other activities of the UFH, whether those programmes take place at University facilities, at a class or training programme sponsored by the UFH at another location, or elsewhere;
- GBV by any faculty member, staff member or student while assigned to duties or academic programmes within the UFH (regardless of their work location) against any individual who is not a faculty member, staff member or student, including UFH invitees;
- GBV by any vendor or individual external to the UFH against any faculty member, staff member, student or UFH invitee during the transaction of business with the UFH, during any programme or activity organised by the UFH and/or while on UFH premises;
- Retaliation by any faculty member, staff member or student against any individual who, in good faith, has made any allegation of GBV or who has testified, assisted or participated in any way in any investigation, proceeding or hearing conducted under the Policy or any legal proceeding;
- Any other action or conduct that comply with the definitions of GBV and the offences created in the Policy.

Note: Any person who knowingly makes false accusations or allegations of GBV, or knowingly makes false statements regarding alleged GBV in any report, investigation, proceeding or hearing conducted under the Policy or any external, formal or legal procedure will be dealt with in terms of the General Prospectus - Section D: Disciplinary Measures (19.7 conduct, whether on University premises or not, which is improper, unbecoming or disgraceful or in any way liable to bring discredit upon the University to prejudice the proper conduct of work of the University) with regards the actions of students and in terms of the Employee Relations Policy and Procedures: 13. Disciplinary Code - 13.1 Disciplinary Action (Deliberately supplying incorrect or falsified information).

Note: Any person who intentionally fails to attend and testify at a disciplinary hearing concerning GBV will be subject, where applicable, to the terms of the Employee Relations Policy and Procedures: 13. Disciplinary Code - 13.1 Disciplinary Action (Refusal to carry out reasonable and law instruction) and General Prospectus - Section D: Disciplinary Measures (19.11 failure to attend and testify at a disciplinary hearing despite receiving summons and relevant information from the DC Coordinator).

5.2.2 Prohibited conduct does not include:

- consensual relationships where the relationship has been disclosed and reported in terms of the conflict interest requirements created herein;
- verbal expression, written or other material that is relevant and appropriately related to the subject matter of a UFH module/course/curriculum or to an employee's duties.

5.2.3 The UFH will, where appropriate and necessary, amend existing disciplinary rules and codes of conduct to make provision for GBV as a serious offence denoting severe sanctions and to incorporate such terms that are necessary as a result of the procedures and offences created in the Policy.

### **5.3 Person to whom the Policy Applies**

5.3.1 The Policy shall apply to and is binding on all UFH staff, students, visitors and third party contractors and to any act of GBV by a staff member, student or third party contractor at or outside the UFH.

5.3.2 The Policy applies to any complainant alleging GBV by a staff member, student or third party contractor, whether or not the complainant is a staff member, student or third party contractor. The UFH expects that all its students, staff and management will refrain from all forms of GBV.

5.3.3 The UFH does not have jurisdiction over other external parties that may, from time to time interact with staff, students, visitors and third party contractors at any UFH property. Management must ensure that suppliers, job applicants, contractors, clients and others, who have dealings with the university, are not subjected to or instigators of GBV at the UFH. Any person who is subjected to such behaviour will have the right to file a complaint through the university's internal structures.

5.3.4 All university appointments at the UFH are dealt with in terms of the relevant Policies relating to the recruitment and induction of new staff members. HR must do all that is necessary and feasible to establish prior offences or conduct by a prospective employee before any prospective candidate is interviewed and must make and such information relevant to the candidate available to the interview panel.

5.3.5 HR must ensure that the appropriate notice period for academic staff resignations are enforces, where possible, to ensure that and disciplinary action may be concluded should a staff member resign where a complaint or DC relating to GBV is pending against a staff member. Staff members who resign before the DC process is finalised must be informed upon exit that the information relating to the pending DC may be disclosed upon request to potential future employers and other persons that qualify to receive such information.

5.3.6 The UFH is committed to ensuring that contractors providing services on the campus of the UFH adopt similar policies and make these binding on all their employees and agents. Nothing herein confers a right on the University to initiate disciplinary proceedings against a non-employee or non-student for breach of the Policy. However, the University reserves the right to take any remedial steps, which may include termination of the relationship, in terms of any agreement regulating the relationship between the University and the party involved and/or to take any steps and action deemed necessary to support the victim.

## **5.7 Area of Application**

The Policy applies to GBV that occurs on or outside of the UFH campuses, or any other premises owned or leased by the UFH, whether inside or outside a building or wherever the UFH is undertaking its business; that occurs during a UFH or UFH-recognised programme or activity (including online activities), which may also refer to UFH-sponsored/initiated events or student organisation-sponsored/initiated activities; occurs while a student or staff member is acting in an official capacity on behalf of the UFH; and/or poses harm or serious threat to any member of the UFH Community and/or creates a hostile educational or work environment.

## **5.8 Romantic or Sexual Relationships between Employees and Students**

5.8.1 Romantic or sexual relationships between employees or between employees and students, even if the relationships are consensual and do not involve any position of authority (such as that of a lecturer who is responsible for the supervision or evaluation of the student's work) creates an environment which is conducive to misconduct and must, as a result be regulated.

5.8.2 The UFH recognises that conflicts of interest resulting from romantic relationships between members of the UFH community could unfairly or improperly benefit the members, third parties or the UFH, and in so doing could call the integrity and objectivity of the University and/or its members into question, or have another adverse effect. Conflicts of interest, actual or potential, must thus always be fully disclosed to relevant line managers. Whenever possible, conflicts of interest must be avoided, unless the activities or interests are approved in terms of the Policy and supporting processes. Where conflicts of interest cannot be avoided, they must be properly managed.

5.8.3 A member of the UFH community shall report, in writing, a potential conflict to the member's line manager within 3 (three) working days of becoming aware of a potential conflict of interest. The Line Manager shall assess the potential conflict and submit his/her recommendations in writing to his/her Line Manager within 5 (five) working days of receiving the notification. Managers to who a report was made must implement such measures necessary to avoid any perceived or actual conflict of interest and must communicate the measures to all affected parties.

## **6. JURISDICTION**

Under the Policy, the UFH is able to investigate alleged incidents of GBV and take appropriate disciplinary action where required:

- that are reported to the UFH, or
- that occurred at the UFH, or
- that occurred outside the UFH, but have migrated to or have created a hostile environment at the UFH; or
- that occurred during the course of UFH programmes (regardless of location), or
- where the respondent is a staff member, student or third party contractor.

## **7. POLICY PRINCIPLES**

7.1 The UFH will not tolerate the justification of any form of GBV on the basis of patriarchal, societal, cultural or religious norms and practices that legitimise and perpetuate GBV. In any complaint involving an alleged act of GBV, the UFH commits itself to respecting and protecting the rights of all the parties involved to confidentiality, privacy, dignity and psychological and physical bodily integrity. The UFH commits itself to ensure complainants have access to adequate counselling and health services in response to an act of GBV. Counselling and health service staff will receive special training in order to ensure that they deal with cases referred to them in a sensitive and adequate manner.

7.2 In addition to possible internal disciplinary proceedings, the UFH further commits itself to advising the complainant of his/her right to institute civil and/or criminal proceedings against the alleged perpetrator of the GBV, and to provide support in laying these charges should the complainant decide to do so.

7.3 The Senate of the UFH shall establish a GBV Unit to receive and investigate complaints of GBV. The Unit shall comprise of knowledgeable staff members, and will liaise with all different interest groups at the UFH. These staff members will either already have, or will receive special training in order to ensure that they deal with cases referred to them in a sensitive and adequate manner.

7.4 The UFH commits itself to regulations for the implementation of the Policy. The UFH will record all decisions taken under the Policy, and keep comprehensive updated and accurate

data on all reported cases of GBV, and will ensure that a quarterly statistical report is submitted to Senate.

7.5 The UFH commits itself to support programmes aimed at changing behaviour and eradicating GBV. This includes facilitating educational interventions to raise awareness and develop an understanding about GBV, including the contexts of gender power inequalities and normative gender roles and sexualities that shape and legitimize practices of GBV. The UFH commits itself to monitor the effective implementation of the Policy.

7.6 The UFH will ensure that there is a way of reporting cases of GBV 24hours of the day, and that the relevant person(s) to report to has adequate training on how to deal with reports in a sensitive and appropriate manner. There should be a GBV focal point and/or persons that is easily accessible to students and staff on all campuses. This includes a place of safety for survivors of GBV.

7.7 The UFH will cause a register to be kept of all complaints of GBV and of all persons found guilty of a case of GBV in terms of the Policy, whether staff or student, and will make this information available to any future employers upon request and as provided for in the Policy.

## **8. RIGHTS**

Persons who have been subjected to GBV at UFH have a right to raise a grievance/complaints regarding it and appropriate action must be taken by the UFH as prescribed by the Policy. Apart from such a right, nothing precludes the complainant to enforce his or her rights personally in terms of the Protection Against Harassment Act, which rights may include the right to a protection order and warrant of arrest; and the right to lodge a criminal complaint. The complainant may further personally initiate a civil claim for appropriate relief. Where appropriate, a complainant may personally refer the matter to the CCMA in accordance with section 135 of the LRA. Should the dispute still remain unresolved, either party may personally refer the dispute to the Labour Court within 30 days of receipt of the certificate of the commissioner in terms of section 135(5).

## **9. RESPONSIBILITIES**

9.1 The UFH has a legal and moral responsibility to prevent GBV and therefore all staff and students have a responsibility to uphold the Policy.

9.2 The Special Unit on GBV has the responsibilities as per the Terms of Reference for the Unit and must act in accordance with the Terms of Reference.

9.3 The Human Resources Department (HR) has a special responsibility to:

- Disseminate the Policy to all employees, prospective employees and contractors;
- Develop or source and implement appropriate training and awareness programmes across the UFH;
- Ensure that employees are trained to effectively handle incidents of GBV either as complainants, advisors, witnesses, representatives, investigators or chairpersons;
- Ensure the availability of appropriate support structures including counselling services and medical assistance for severe cases;
- Ensure that cases of GBV are handled with due regard to the principles of natural justice;
- Provide alternative avenues to handling cases where there is potential for bias or conflict of interest if the line manager were to handle the case;
- Record formal proceedings, provide impartial advice and interpretation of the Policy to complainants and managers;
- Review all cases of GBV to ensure that cases are handled consistently in accordance with the Policy and re-open cases where there is evidence of gross irregularity; and
- Monitor compliance and maintain a record of all cases of GBV, evaluate data to find any patterns and review as appropriate.

9.4 Managers are responsible for the implementation of the Policy and must ensure that:

- Their areas are free from GBV;
- Model appropriate behaviour and refrain from committing acts of GBV;
- Monitor the work environment to ensure that acceptable standards of behaviour are observed at all times;

- Treat all complaints seriously and take immediate action to investigate and resolve the matter within a reasonable timeframe;
- Take necessary steps to ensure that there is no prejudicial action taken against complainants; and
- Communicate the Policy employees and promote awareness programmes designed to prevent GBV.

9.5 All UFH employees and students have a responsibility to:

- Comply with and promote the Policy;
- Offer support to anyone who is being harassed and let them know where they can get assistance; and
- Maintain confidentiality if they provide information during a GBV investigation or if they are called as witnesses at any disciplinary hearing or other investigative review.

9.6 Managers, as defined and Student Representative Council Members have a responsibility to:

- Assist victims of GBV and report (to the Reporting Officer or Unit any allegation of GBV brought to their attention.

## **10. SUBJECTION TO OCCUPATIONAL DETRIMENT**

No person may be subjected to any form of occupational detriment for the bona fide reporting of an incident of alleged harassment or GBV or testifying, assisting or participating in any proceeding, investigation or hearing relating to such allegation of GBV.

## **11. DISCIPLINARY MEASURES**

11.1 The Policy will apply to and supplement the UFH Student Disciplinary Rules (DR 20 Disciplinary Proceedings) and UFH Code of Conduct. Any violation thereof will be subject to the appropriate sanctions depending on various factors such as the severity or gravity of the offence, the interests of the UFH and the impact on the complainant. The Policy must be read together with the UFH Code of Conduct and the UFH Student Disciplinary Rules. Any violation thereof will be subject to the appropriate sanctions depending on (but not limited to) the facts of each case as stipulated.

11.2 The Policy will be incorporated in all agreements with third party contractors, their agents and sub-contractors rendering services to the UFH. Any violation thereof by such third parties will be subject to the appropriate sanction depending on (but not limited to) the facts.

11.3 In determining whether conduct amounts to sexual harassment, the following factors may be taken into account:

- i. The position of the parties within the UFH;
- ii. Previous consensual participation in sexual conduct;
- iii. A single incident of unwelcome sexual conduct may constitute sexual harassment;
- iv. The subjective perception of the complainant of the conduct of the alleged perpetrator;
- v. That the victim has indicated that such conduct is considered to be offensive;
- vi. That some forms of sexual harassment are such that the alleged perpetrator should have known that the behaviour would be unwelcome or inappropriate; and / or
- vii. When a victim has difficulty indicating to the alleged perpetrator that the conduct is unwelcome, that the victim seeks the assistance and intervention of another person in order to make it clear that the conduct is unwelcome;
- viii. Any other relevant factor deemed appropriate to finalise the enquiry.

## 12. OFFENCES

Any offences, as listed herein, must be handled in accordance with the provisions of the UFH's Disciplinary Codes. The following constitute offences under the Policy:

Category	Nature of Offence	First Offence	Second Offence
<b>Harassment</b>	Following, watching, pursuing or accosting of the complainant or a related person, loitering outside of or near the building or place where the complainant or a related person resides, works, carries on business, studies or happens to be	Final Written Warning	<b>Dismissal</b> Suspension / Expulsion
	Engaging in verbal, electronic or any other communication aimed at the complainant or a related person, by any means, whether or not conversation ensues	Final Written Warning	<b>Dismissal</b> Suspension / Expulsion
	Ending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant or a related person or leaving them where they will be found by, given to or brought to the attention of, the complainant or a related person	Final Written Warning	<b>Dismissal</b> Suspension / Expulsion

	Any other act of Harassment that conforms to the definition of harassment	Verbal Warning, Written Earning, Final Written Warning, <b>Dismissal</b> (Depending on severity of offence) / Suspension / Expulsion	Verbal Warning, Written Earning, Final Written Warning, <b>Dismissal</b> (Depending on severity of offence) / Suspension / Expulsion
--	---	--	--

Category	Nature of Offence	First Offence	Second Offence
<b>Sexual Harassment</b>	Inappropriate Touching, Strip Search by Opposite Sex, Kissing, Hugging and Fondling	Final Written Warning / <b>Dismissal</b> / Suspension / Expulsion	<b>Dismissal</b> / Suspension / Expulsion
	Sexual Assault Actual/Attempted Rape	<b>Dismissal</b> / Suspension / Expulsion	
	Demeaning verbal comments of a sexual nature; subtle or explicit demands for or offers of sexual favours; unwanted or unwelcome innuendos, suggestions and hints of a sexual nature; and/or comments with sexual overtones; unwelcome or inappropriate nicknames, derogatory or obscene remarks, unwelcome comments or enquiries about a person's sexual habits, unwelcome telephone calls or e-mails with sexual undertones, unwelcome sex-related jokes or insults, unwelcome graphic comments about a person's body, unwelcome whistling, unwelcome gestures with a sexual meaning, indecent exposure of private parts, persistent and unwelcome flirtation, unwelcome physical contact, strip-search by or in the presence of the opposite sex, unwelcome display of pornographic or other offensive, derogatory and/or sexually explicit photos, caricatures, designs, objects, slides, movies or other material, quid pro quo harassment, and sexual favouritism, unwelcome suggestions or hints, sexual advances, comments with sexual overtones, sex-related jokes or insults	Final Written Warning	<b>Dismissal</b> / Suspension / Expulsion
	Transmission, by any means, electronic or otherwise, or the gratuitous display of sexually explicit written or audio-visual materials; offensive gestures or actions of a sexual nature such as indecent exposure; stalking behaviour such as pursuing or following a person, or non-consensual communication or other contact, including but not limited to unwelcome gestures, indecent exposure, display of sexually explicit Insinuation that lack of pictures and objects, sexually suggestive looks, staring or ogling, suggestive body language and sexually oriented letters	Final Written Warning	<b>Dismissal</b> / Suspension / Expulsion

	Electronically recording, photographing or transmitting intimate or sexual utterances, sounds, or images without the knowledge and consent of all parties involved; voyeurism (spying on others who are in intimate or sexual situations or in compromising positions); distributing intimate or sexual information about another person without that person's consent; and/or prostituting or trafficking another person	Final Written Warning	<b>Dismissal</b> Suspension / Expulsion
	Any other act of Harassment that conforms to the definition of harassment	Verbal Warning – <b>Dismissal</b> (Depending on severity of offence) Suspension / Expulsion	
<b>Category</b>	<b>Nature of Offence</b>	<b>First Offence</b>	<b>Second Offence</b>
<b>GBV</b>	Intimate partner violence	Final Written Warning / Admonition / <b>Dismissal</b> Suspension / Expulsion	<b>Dismissal</b> Suspension / Expulsion
	Sexual assault	<b>Dismissal</b> Suspension / Expulsion	
	Rape	<b>Dismissal</b> Suspension / Expulsion	
	Any other act of GBV that conforms to the definition of harassment	Verbal Warning / Admonition – <b>Dismissal</b> (Depending on severity of offence) Suspension / Expulsion	Verbal Warning – <b>Dismissal</b> (Depending on severity of offence) Suspension / Expulsion

<b>Category</b>	<b>Nature Of Offence</b>	<b>First Offence</b>	<b>Second Offence</b>
<b>Other Offences</b>	Subjecting a person to occupational detriment in relation to any the Policy	Final Written Warning / Admonition	<b>Dismissal</b> Suspension / Expulsion
	Failure by a manager, as defined, or other person where a duty was created in the Policy, to who a report of GBV was made, to report the complaint to the Reporting Office where such a manager or other person were obligated in terms of the Policy to report the complaint	Final Written Warning / Admonition	<b>Dismissal</b> Suspension / Expulsion
	Failure by the Employee Relations Officer, the Reporting Officer or any other person to who a report of GBV to treat the report of GBV as confidential as required by the Policy	Final Written Warning / Admonition	<b>Dismissal</b> Suspension / Expulsion
	Engaging in any form of retaliatory act relevant to GBV	Final Written Warning / Admonition	<b>Dismissal</b> Suspension / Expulsion

	Intentional failure to co-operate with an investigation concerning GBV where the person has knowledge relevant to an act of GBV	Final Written Warning / Admonition	<b>Dismissal</b> / Suspension / Expulsion
	Failure to comply with any other duty as set out in the Policy	Final Written Warning / Admonition	<b>Dismissal</b> / Suspension / Expulsion

Note: See Employee Relations Policy and Procedures: 10.6.2.3 Forms of Disciplinary Sanctions and General Prospectus - Section D: Disciplinary Measures 20.5 Penalties. Penalties stipulated herein serves as a guide to Presiding Officers only and penalties must be imposed with reference to the guidelines herein but such guidelines may be deviated from in appropriate circumstances after consideration of all the circumstances and facts of each matter.

The Policy hereby supplements the UFH Student Disciplinary Rules and Code of Conduct and thus amends the existing disciplinary rules and codes of conduct to make provision for GBV as a serious offence denoting severe sanctions.

### **13. REPORTING OF A COMPLAINT**

13.1 The UFH commits itself to establishing a specialised Unit and just, specialised procedures for the reporting, investigation and resolution of complaints of GBV. The UFH commits to putting in place adequate institutional mechanisms, with adequately trained staff, so that acts of violence can be reported within a reasonable time in a safe and confidential environment, free from fear of penalties or retaliation.

13.2 In order to prevent the fragmentation of responses to GBV across a range of UFH structures such as human resources, student affairs, legal offices and equity and transformation Committees, (which can result in their not communicating with each other, resulting in confusion over who to report to, as well as follow up of cases), the UFH will create a specific GBV Unit and a Reporting Officer, which will be tasked to deal with all cases of GBV at the UFH. This Unit is to report to the VC's office directly, and is not to be subsumed under another already existing Unit in the UFH.

### **14. PROCEDURE FOR MANAGING COMPLAINTS OF GBV**

14.1 The following procedures will apply when dealing with issues of GBV. These procedures must ensure the resolution of problems in a sensitive, efficient and effective way.

14.2 Should staff or students experience or be aware of GBV, the following procedure is to be followed:

- A person affected by GBV may elect to, where it is a minor and isolated incident, to confront the alleged perpetrator personally and/or in writing, should this be at all possible. Inform the person that his/her behaviour is inappropriate, unwelcome or unamusing. Keep a written record of the event(s) by noting *inter alia* the incident(s), time(s), name(s) and evidence or any other relevant information that may be helpful in solving the problem. A person who has been sexually harassed or who alleges GBV and wants to deal with the matter informally may seek advice from their supervisor, advisor of their choice, human resource official, union representative or any employee they are comfortable to confide in. The complainant can request the person they sought advice from to privately speak to the alleged harasser on their behalf. Informal action is appropriate where:
  - The allegations are of a less serious nature, i.e. where dismissal is not indicated as a first appropriate sanction for the offence; and
  - The complainant wishes to resolve the matter informally.
- Informal action is not appropriate as a first appropriate sanction for offences such as rape and indecent assault because the rights of parties may be compromised.
- Should the GBV continue, or if it is of a serious nature, then this must be brought to the attention of the Reporting Officer as soon as is reasonably possible.
  - If a complaint is brought to the attention of a manager in the case of an employee or student representative member, then the manager or student representative member shall notify the Reporting Officer immediately thereof;
  - GBV may also be brought to the attention of the GBV Unit and/or Reporting Officer by the complainant directly or any other person aware of the GBV;
  - Reports submitted should be made in writing
  - Any complaint of GBV will be recorded in writing by the Reporting Officer and will be dealt with through the specialized GBV Unit, which will manage the complaint.
- The steps to be taken by the Reporting Officer / GBV Unit on receipt of a complaint should include, but are not limited to, the following:
  - advise the complainant that there are formal and informal procedures which can be followed;
  - explain the formal and informal procedures to the complainant;

- advise the complainant that he/she may choose which procedure should be followed by the UFH;
- advise the complainant that the person(s) assisting him or her may not be called as a witness during any formal procedure;
- reassure the complainant that she or he will not face any adverse consequences in choosing to follow either the formal or informal procedure;
- advise the complainant that he or she is not bound by the outcome of the procedure and will have the right to appeal directly to the VC within seven days of the conclusion of that process;
- advise the complainant that the matter will be dealt with confidentially;
- if applicable, advise the complainant that no negative inference on his or her credibility will follow as a result of late reporting;
- provide the complainant with information about counselling available as well as information on how to access independent counselling services;
- in appropriate circumstances, advise the complainant of her or his right to refer the matter to the SAPS and obtain further legal advice outside the University.

14.3 If a complainant, after consultation with the Reporting Officer / Specialized GBV Unit, does not wish to pursue the matter, and the complaint is judged by the Unit to be of a serious nature, the Unit must consider all relevant information, including but not limited to the following:

- the risk to other persons in the UFH;
- the severity of the GBV;
- the history of the alleged perpetrator with regard to previous cases and complaints of GBV.

14.4 If it appears to the Specialized GBV Unit that there is a significant risk of harm to other persons, it may advise the Reporting Officer to follow a formal procedure, irrespective of the wishes of the complainant. In such an event, the complainant must be advised accordingly and the Unit must prepare a written recommendation to the VC. The recommendation shall include (but not be limited to) the following:

- a description of the alleged GBV or assault;

- the complainant's reasons for his/her unwillingness to pursue the matter further or to be called as a witness;
- compelling reasons in support of a formal procedure.

14.5 An employee complainant who wants to pursue the matter through a formal procedure shall lodge the grievance with the Reporting Officer or with his manager as provided for in the UFH Code of Conduct, provided the manager is not in a position of conflict of interest in the case of a staff member and or with the GBV Unit in writing. The manager is obliged to report the grievance to the Specialized GBV Unit.

14.6 Due to the sensitivity of GBV incidents and a genuine fear of reprisals, the Specialized GBV Unit must investigate the matter as soon as possible.

14.7 If the findings are that the alleged harasser has a case to answer, the Specialized GBV Unit, must, after receipt of the investigation report, conduct a formal disciplinary hearing where the Reporting Officer shall act as the prosecutor as soon as possible after they receive the relevant documentation regarding the alleged incident of GBV. The Specialized GBV Unit will notify the alleged perpetrator about the date of the disciplinary hearing.

14.8 The disciplinary hearing will be conducted in accordance with the institutional disciplinary procedures and codes applicable to students and employees (whichever is applicable in the circumstances).

14.9 Once the disciplinary hearing outcome is received, the Specialized GBV Unit will be informed that the matter is finalised and/or furnished with further information appropriate in the circumstances. If the alleged perpetrator is found guilty, the chairperson of the hearing must ensure that the proposed penalty imposed is proportionate to the seriousness of the GBV committed. The Unit shall thereafter and as soon as the outcome is agreed upon, communicate the findings of the Specialized GBV Unit to both the complainant and perpetrator.

14.10 If either party is not satisfied with the outcome of the disciplinary hearing, they may pursue the matter through the dispute resolution procedures in place in terms of the UFH Code of Conduct and the Rules Applicable to Student Discipline, as amended from time to time.

14.11 Reporting structures may not refuse to investigate, or otherwise pursue, complaints solely on the basis that criminal charges have been laid. Acts such as rape, assault and assault with the intent to cause grievous bodily harm, as well as some forms of GBV constitute forms of gross misconduct and must be dealt with as such, irrespective of the status or outcome of criminal proceedings.

14.12 Disciplinary tribunals constituted to hear such matters must be reminded that decisions in disciplinary matters are made on a balance of probabilities, rather than by utilising the criminal court standard of proof beyond reasonable doubt. Further, because disciplinary tribunals are not criminal courts, they are not entitled to evidence gathered through the police investigation.

14.13 The UFH will keep a register of all persons found guilty of any offence listed in the Policy, whether staff or student, and will make this information available where it is required and permissible.

## **15. IMMEDIATE SUPPORT AND INTERIM INTERVENTIONS**

### **15.1 Support**

15.1.1 Immediately, after receipt of information about an incident of GBV, the Reporting Officer, will perform an initial assessment of the information received in order to determine what the most appropriate way towards a resolution would be. The Specialized GBV Unit will arrange that appropriate support is offered to both the complainant and alleged perpetrator (as well as other person(s) if necessary), and that they are notified about the applicable institutional policies

15.1.2 The Specialized GBV Unit will put immediate measures in place to prevent/address retaliatory conduct. If the Specialized GBV Unit conclude that certain behaviour may be harmful to individual, certain members of the University community, or the orderly functioning of the University, they may refer to the relevant office for interim arrangements.

15.1.3 The following are examples of interim arrangements that the member could put in place:

- Secure access to certain spaces in order to protect evidence for investigation;

- No-contact orders;
- Change in accommodation arrangements or the suspension of University accommodation;
- Academic modifications or suspension from academic activities;
- Limiting access to certain University facilities; and/or
- Suspension from certain co-curricular activities;
- Victim support.

15.1.4 Where it is determined, during the initial assessment, that the Harassment, Sexual Harassment or GBV is of a serious nature, and in any other case where the University considers it appropriate, the Vice Chancellor or his/her nominee may suspend the alleged offender from the University with immediate effect pending a disciplinary hearing into the matter as provided or in the UFH Student Disciplinary Rules (Section D: Disciplinary Measures DR 17) and Code of Conduct. The duration of such suspension and the terms thereof shall be communicated to the student in writing. In exercising his/her power pursuant to this rule, the VC or his/her nominee may consider any recommendations to his/her office from the Dean of Students/DC Coordinator, Reporting Officer or Specialized GBV Unit. These interim interventions could be kept intact until the end of the disciplinary process unless the Vice-Chancellor directs otherwise.

## **15.2 Additional sick leave**

Where an employee's existing sick leave entitlement has been exhausted, the UFH should give due consideration to the granting of additional sick leave in cases of serious sexual harassment or GBV where the employee on medical advice requires trauma counselling. Special arrangements should also be considered for students in similar cases with regards to academic and other activities.

## **16. NO-CONTACT ORDERS**

16.1 A no-contact order is intended to protect a complainant from GBV, or the possibility of GBV, whether or not a formal disciplinary process is instituted or contemplated. A no-contact order (a) for staff is issued by the VC or nominee after considering the facts; (b) for students, by the VC or his or her nominee on recommendation from the Specialized GBV Unit to allow such an order to protect a complainant from GBV whether or not there is an allegation of a

breach of the Policy, and to allow for such a no contact order to be valid for an initial period of up to six months. The issuing of a no-contact order does not, in itself, imply guilt on the part of an alleged perpetrator.

16.2 A no-contact order (a) for staff is valid for an initial period of not more than six months and may be renewed by the VC or nominee after consultation with the complainant, and after hearing the alleged perpetrator, until the VC nominee deems it is no longer necessary or any disciplinary hearing has been concluded; (b) for students is for such period or periods as is determined necessary. The terms of a no-contact order may vary depending on the circumstances of the case. The terms of a staff no-contact order may be varied by VC or nominee either after appeal by the staff member or after a recommendation by ER or other office with an interest. Violation of a no-contact order constitutes serious misconduct and may be subject to disciplinary action.

## **17. CONFIDENTIALITY**

17.1 The UFH recognises that confidentiality is essential in GBV disciplinary inquiries. All parties must ensure confidentiality and only appropriate members of management, the complainant, the alleged perpetrator; their representatives, witnesses and interpreters may be present. The confidentiality and privacy of the complainant and the alleged perpetrator must be respected to the extent that is reasonably possible. The UFH may, however, in some instances be unable to maintain confidentiality; for example, if it is compelled by an order of court to disclose information, or if communal interests outweigh individual ones. The UFH will, however, endeavour to obtain the consent of both the complainant and the alleged harasser should be obtained prior to giving information to third parties. The UFH may disclose to either party or their representatives such information as may be reasonably necessary. The relevant provisions of the LRA, PAIA, POPI and any other applicable legislation apply to the disclosure of information. Records of proceedings, including the outcome thereof, shall be kept by HR in sealed and confidential files and shall be disposed of in accordance with UFH policy.

17.2 In cases of GBV, management, employees and the parties concerned must endeavour to ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the aggrieved person, representative, alleged perpetrator, witnesses, interpreter if required, and such other persons as the presiding officer deems necessary for the proper functioning of the process must be present in the disciplinary enquiry. The UFH is required to

disclose, to either party or to their representatives, such information as may be reasonably necessary upon request to the presiding officer to enable the parties to prepare for any proceedings in terms of this code. All parties will be required to preserve anonymity, as far as practicable, to seek advice from others without divulging the identity of the respondent or complainant. Information may be disclosed only where there is an imminent physical threat of danger to another person.

## **18. IMPLEMENTATION OF THE POLICY**

18.1 HR is responsible for the education of all employees about the Policy. It is also responsible for facilitating the implementation of the Policy, offering advice regarding the Policy and monitoring adherence to the Policy by employees.

18.2 The Dean of Students is responsible for the administration and enforcement of the Policy where it relates to students and student conduct. The Dean of Students is responsible for the education of all students about the Policy and is also responsible for facilitating the implementation of the Policy, offering advice regarding the policy and monitoring adherence to the Policy by students.

18.3 Heads of Department (academic and support services) and line managers are accountable for the continuous monitoring and implementation of the Policy.

18.4 The Specialized GBV Unit, in close collaboration with other relevant institutes, Committees, centres, faculties and departments within the University and beyond the University, are obliged to facilitate initiatives that will assist in preventing incidents of GBV, sexual misconduct and sexual violence and in educating students, staff and the UFH Community about these.

18.5 The Specialized GBV Unit will coordinate a programme for the VC or his/her delegate or nominee, annually at the beginning of the first semester, and present a report at the end of the second semester in this regard.

## **19. COMMUNICATION**

19.1 The UFH shall take all reasonable steps to communicate the Policy to all staff, students and third parties on a regular basis and to raise awareness about the need to prevent GBV. The

UFH shall make the Policy available on its Web pages. The VC shall ensure that the required communication occurs. The Deans/Directors shall communicate regularly by written and oral means the seriousness of the issue and the existence of the Policy and its salient features to employees, students and third parties within their Faculties; communicate regularly with Heads of Departments (HODs) and all other managers in the Faculty concerning their responsibilities in the implementation of the Policy.

19.2 The DVC Student Affairs shall communicate regularly by written and oral means the seriousness of the issue and the existence of the Policy and its salient features to employees, students and third parties within the residences of the UFH; communicate by written and oral means the contents of the Policy to the Students' Representative Council (SRC).

19.3 The Communication and Marketing Department shall ensure that information is available to the Specialized GBV Unit to allow for the implementation of the Policy; send an e-mail to all employees, students and third parties at least once a year informing them about the Policy; report annually to the VC about the effectiveness of communication of the Policy.

## **20. EDUCATION AND TRAINING**

Continuing education and training are necessary to ensure that employees, students and third parties are aware of the contents of the Policy and are able, as appropriate, to implement it and to prevent GBV. Any person investigating or prosecuting a complaint of GBV must receive comprehensive training prior to their involvement in any GBV matter.

## **21. CRIMINAL AND CIVIL CHARGES**

The complainant's right to initiate criminal or civil proceedings or to pursue any other available legal rights in his/her private capacity against an alleged perpetrator are in no way limited by the contents or procedures of the Policy. Any individual may report any criminal activity to the SAPS at any time.

## **22. EFFECTIVE DATE**

The effective date of the Policy shall be upon signature by the Administrator.

## **23. REVIEW DATE**

The Policy shall be reviewed, at minimum, every three years.