

**STELLENBOSCH UNIVERSITY CODE OF CONDUCT
FOR THE PREVENTION OF AND RESPONSE TO SEXUAL
EXPLOITATION AND ABUSE, AS IMPLEMENTED
THROUGH THE PERIPERI U PROGRAMME**

**Stellenbosch University Code of Conduct
for the Prevention of and Response to Sexual Exploitation and Abuse,
as Implemented through the Periperi U Programme¹**

1. Introduction to the Code of Conduct

In its capacity as the secretariat for Periperi U, Stellenbosch University, acting through its Research Alliance for Disaster and Risk Reduction (RADAR) (hereafter referred to as “SU”), actively implements a Code of Conduct for the Prevention of and Response to Sexual Exploitation and Abuse (hereafter referred to as “The Code of Conduct”).

This Code of Conduct is consistent with the requirements detailed by the Inter-Agency Standing Committee (IASC) Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises, including the following principles:²

1. Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment;
2. Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defense;
3. Exchange of money, employment, goods, or services for sex, including sexual favors or other forms of humiliating, degrading, or exploitative behavior is prohibited. This includes exchange of assistance that is due to beneficiaries;
4. Sexual relationships between humanitarian workers and beneficiaries are strongly discouraged since they are based on inherently unequal power dynamics. Such relationships undermine the credibility and integrity of humanitarian aid work;
5. Where a humanitarian worker develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same humanitarian aid agency or not, s/he must report such concerns via established agency reporting mechanisms; and
6. Humanitarian workers are obliged to create and maintain an environment that prevents sexual exploitation and abuse and promotes the implementation of their code of conduct. Managers at all levels have particular responsibilities to support and develop systems that maintain this environment.

2. Institutional Framing of The Code of Conduct at Stellenbosch University

The Code of Conduct is institutionally defined by the content of four Stellenbosch University policy and procedural instruments: These are:

- Concept Policy on Unfair Discrimination and Harassment (especially Sections 6. and 7.).³
- Sexual Harassment: Policy and Procedure for Staff: <http://www0.sun.ac.za/hr/wp-content/uploads/2012/11/IR0156-Sexual-Harassment-Policy-and-Procedure-for-Staff.pdf>
- HIV/AIDS Policy for Students and Staff: <https://www0.sun.ac.za/hiv/en/policies>
- Disciplinary Code: Procedure Regarding Disciplinary Action Against Staff. <http://www0.sun.ac.za/hr/documents/policies-and-procedures/>

These policy instruments are presented in the remainder of this document.

¹ For more information on the Code of Conduct for the Prevention of and Response to Sexual Exploitation and Abuse, as implemented through the Periperi U Partnership, please contact: Dr A. Holloway, RADAR, at ailsaholloway@sun.ac.za or at + 27 (0) 21 808 9281/5

² <https://interagencystandingcommittee.org/product-categories/iasc-statements>

³ This Policy has been technically signed-off, but is awaiting final approval by Stellenbosch University Council in September 2016

**CONCEPT POLICY ON UNFAIR DISCRIMINATION
AND HARASSMENT**

CONCEPT POLICY ON UNFAIR DISCRIMINATION AND HARASSMENT

Reference number of this document	
HEMIS classification	
Purpose	The purpose of the policy is to state the principles and provisions to address unfair discrimination, harassment and victimisation for staff and students at Stellenbosch University, including the adoption of positive measures to prevent and protect against unfair discrimination, harassment and victimisation as well as providing procedures for dealing with complaints of unfair discrimination, harassment and victimisation in the institution.
Type of document	Policy Document
Accessibility	General internal and external accessibility.
Date of implementation	Protocol implementation by 1 January 2016 Policy implementation by 1 October 2016
Revision date/frequency	The policy must be reviewed every five years, or sooner, if circumstances so dictate, or as deemed necessary.
Previous revisions	No revisions have taken place as this is a new policy.
Owner of these rules	Vice-Rector: Learning & Teaching & Vice-Rector: Social Impact, Transformation and Personnel (joint ownership)
Institutional functionary (curator) responsible for these rules	Senior Director: Student Affairs & Chief Director: Human Resources (joint curatorship)
Date of approval	Envisaged for 26 September 2016
Approved by	Stellenbosch University Council

Sleutelterme / Key terms

Afrikaans	English
Onbillike diskriminasie	Unfair discrimination
Seksuele teistering	Sexual harrassment
Viktimisering	Victimisation
Gelykheid	Equality
Transformasie	Transformation
Gender	Gender

1. INTRODUCTION

1.1 Stellenbosch University's (SU) strategic positioning for the 21st century is anchored in creating and sustaining an environment of inclusivity, transformation, innovation, diversity, and maintaining excellence with a focus on the future. The institution's responsibility to our country and continent is key and one of the challenges in this regard is to remove inequalities and discrimination in our higher education system and to strengthen human rights and democracy on our campuses. These aspirations have been captured in the University's vision, mission and value statement for 2030¹.

1.2 The University fully commits itself to promoting all fundamental rights and freedoms of every person on campus, as required by the Constitution and legislation such as the Promotion of Equality and the Prevention of Unfair Discrimination Act 4 of 2000 as well as the Employment Equity Act 55 of 1998.

1.3 Equality is promoted within a culture of inclusivity. SU is committed to become a more diverse, accessible, inclusive, participatory and representative institution and to remain self-reflective of the potential of structural discrimination, micro-aggressions and oppression².

¹ Institutional Strategy and Intent, Stellenbosch University, 2013 - 2018

² Institutional Strategy and Intent, Stellenbosch University, 2013 - 2018

2. PURPOSE OF THE POLICY

2.1 The purpose of the policy is to state the principles and provisions to address unfair discrimination against staff and students at Stellenbosch University as well as ensuring appropriate mechanisms to support those subject to unfair discrimination, and require the taking of positive measures to protect and prevent against instances of unfair discrimination.

2.2 This policy aims to promote equal opportunities for success through appropriate structures and practices.

2.3 This policy offers an overarching guiding framework to promote equality and to prevent and address unfair discrimination.

3. SCOPE OF THE POLICY

3.1 The scope of the policy is to guide all policy and procedural documents and principles in relation to unfair discrimination and harassment at Stellenbosch University.

3.2 The policy applies to all staff and students of the University whilst on any property under the University's jurisdiction or whilst engaged in any University-related activity.

3.3 This policy applies where ever unfair discrimination or harassment might impact on the University, its staff, students or other stakeholders, when and wherever any behaviour relating to unfair discrimination and harassment impacts on the good name of the University, harms a fellow student, stakeholder or staff member of the University.

4. AIMS OF THE POLICY

The aims of this policy are:

4.1 To appropriately name and define unfair discrimination, harassment and victimisation with a view to prevent or address all forms of unfair discrimination, harassment and victimisation within the institution;

- 4.2 To provide consistent, fair, reasonable and transparent procedures and structures for dealing with allegations of unfair discrimination, harassment and victimisation;
- 4.3 To promote adherence to the principles of the Constitution of South Africa and relevant legislation;
- 4.4 To clarify internal and external roles and responsibilities with regards to reporting, support, investigations, education and communication;
- 4.5 To recognise past inequalities and the impact thereof and to implement corrective and remedial actions.

5. DEFINITIONS

For the purpose of this policy, the following definitions are provided:

- 5.1 **Unfair discrimination:** Any conduct or omission, including a policy, rule, practice that undermines a person's human dignity or has the effect of preventing them from participating as an equal in any aspect of University life on one or more grounds of race, gender, sex, pregnancy, marital status, HIV/Aids status, socio-economic status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth or any other legally recognised prohibited ground of discrimination. It is not unfair discrimination to take measures designed to protect or advance persons or groups disadvantaged by unfair discrimination.
- 5.2 **Direct unfair discrimination:** Overt discrimination, which occurs when a person is treated less favourably than another person on the basis of any of the grounds in terms of the definition of unfair discrimination.
- 5.3 **Indirect unfair discrimination:** A requirement, condition or practice, which appears neutral, but has the effect of discriminating unfairly against any other person on the grounds in terms of the definition of unfair discrimination.

5.4 Harassment: Unwanted conduct which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and which is related to –

- (a) sex, gender or sexual orientation, or
- (b) a person's membership or presumed membership of a group identified by one or more of the prohibited grounds or a characteristic associated with such a group.

5.5 Sexual Harassment: Sexual harassment refers to behaviour typically experienced as offensive, by means of which sexual approaches are made within the context of a relationship of equal/unequal power or authority. Sexual harassment is a form of discrimination on the grounds of gender. It is unwanted and may be experienced as an expression of power, authority and control of a sexual nature. It creates a hostile environment that impedes the individual's capacity to learn and/or work.

There are divergent perceptions of what constitutes sexual harassment. It ranges from unwelcome sexual attention, sexist or suggestive remarks, bribery/extortion (e.g. positive rewards for sexual favours) to aggressive behaviour, such as attempted or actual rape. Sexual harassment thus covers a broad spectrum of unwanted behaviour and includes amongst other -

- (a) **Verbal forms** such as unwelcome enquiries regarding a person's sex life, telephone calls with a sexual undertone, continuous rude or sexist jokes/remarks, unwelcome requests for dates, remarks about a person's figure, etc;
- (b) **Non-verbal forms** such as gestures with a sexual meaning, leering, continuous unwelcome flirtation, etc;
- (c) **Visual forms** such as exhibiting pornographic photos, comics, objects, etc. that create a hostile environment;
- (d) **Physical forms** such as unwelcome contact through patting, pinching, fondling, kissing, pawing, assault, molesting and rape;

- (e) **Quid pro quo forms** such as sexual bribery (e.g. promising a promotion in return for granting sexual favours) and sexual extortion (e.g. refusal to promote an individual if he/she does not consent to granting sexual favours).

5.6 **Victimisation:** Any detrimental consequences (or threat of such consequences) visited on a person because he or she has laid, intends to lay, or has helped someone else to lay, a complaint of unfair discrimination, or because she or he has provided information about a complaint (for example, whistle-blowing) or acted as a witness in a complaint of unfair discrimination.

6. POLICY PRINCIPLES

6.1 Equality as a strategic priority

Equity and equality are recognised as an integral component of the strategic priorities to strengthen human rights and democracy on our campuses. These aspirations have been captured in the University's vision, mission and value statement for 2030³.

6.2 Responsibility

Every student and staff member at SU should feel that, since they are co-owners of the University, they are also co-responsible for respecting and promoting the principles laid down in this policy

6.3 Employment equity practices

Equal opportunities, affirmative action, the prohibition of unfair discrimination and promotion of diversity are key driving principles of the recruitment and appointment process for SU.

7. POLICY PROVISIONS

7.1 The prohibition of unfair discrimination, harassment and victimisation and the creation of a diverse and inclusive campus community

³ Institutional Strategy and Intent, Stellenbosch University, 2013 - 2018

7.1.1 All persons to whom this policy applies must refrain from engaging in any form of direct or indirect, unfair discrimination, harassment or victimisation as defined in paragraph 5 above;

7.1.2 University management must take reasonable steps to create a diverse working environment which is free from all forms of unfair discrimination, harassment or victimisation. Such steps include:

- a) Adopting appropriate policies, plans and programmes to protect or advance groups disadvantaged by unfair discrimination or members of such groups;
- b) On a regular basis reviewing all institutional policies and practices to ensure their compliance with the principles and provisions set out in this policy;
- c) Adopting appropriate education strategies and communication campaigns to continuously educate and sensitise staff and students with regards to the prohibition of unfair discrimination, harassment and victimisation and the promotion of a diverse, inclusive campus environment;
- d) Adopting institutional practices that foster language sensitivity and create institutional space and appreciation for various cultural and religious practices, social justice campaigns and public celebrations.

7.1.3 All employees are required, within a year of commencing employment, to undergo race, diversity, transformation and social justice training as part of their induction to the University; as well as at other times during their employment to enhance their understanding and compliance with this policy.

7.1.4 All line managers are obliged to:

- a) ensure that all staff reporting to them have undergone race, diversity, transformation and social justice training in terms of paragraph 7.1.3 above;
- b) monitor the working environment to ensure that it is free from all forms of unfair discrimination and to take the appropriate remedial action in terms of this policy in the case of the presence or threat of unfair discrimination in their environments;

- c) behave appropriately themselves, including ensuring that they do not engage in conduct that may breach the policy and procedures set out herein, including refraining from any form of victimisation of staff or students;
- d) ensure that all persons to whom this policy applies and that fall under their line management understand the policy and procedures set out herein. Residential Heads of Residences and Visiting Heads of Private Student Organizations, in collaboration with the Centre for Student Structures and Communities, must ensure that all students understand the policy and procedures set out herein.

7.1.5 All employees and students of Stellenbosch University have a responsibility to:

- a) ensure that they do not engage in any unfair discrimination, harassment or victimisation in breach of this policy;
- b) report any incidences of unfair discrimination, harassment or victimisation [as outlined in the attached reporting protocol – Addenda A and B];
- c) direct persons who allege they have been the victim(s) of unfair discrimination or harassment to the responsible entities in terms of paragraph 7.2 below for support, counselling, and the laying of the appropriate complaints;
- d) maintain complete confidentiality of information and cooperate during the investigation of a complaint.

7.2 Provisions that frame institutional responses to unfair discrimination and harassment and victimisation

7.2.1 **Confidentiality** must be maintained to the greatest possible extent, with communication limited to persons to whom disclosure is consistent with official position and responsibility, or with specific responsibility to assist in the resolution of the grievance;

7.2.2 The principles of **procedural fairness** shall apply at all stages of a complaint resolution process. Persons responsible for investigating and resolving complaints have a duty not to be affected by bias or conflict of interest, and must act fairly and impartially.

Each party shall be given a fair opportunity to know the case against her or him and to be heard;

- 7.2.3 Complaints shall be **investigated promptly** involving as few people as possible. Parties to a complaint shall be entitled to receive advice and support as appropriate, and to be kept informed of the progress of a complaint [as outlined in the attached reporting protocol – Addenda A and B];
- 7.2.4 Where appropriate, the preferred **method of resolution** shall be by discussion, mediation, a process of conciliation or education which aim to redress the breaches of this policy, and to assist the parties to reach agreement on an outcome which is consistent with constitutional rights and values as well as relevant legislation;
- 7.2.5 It is recognised that **conciliation may not be appropriate** if a party to a complaint holds a reasonable belief it is likely to provoke victimisation, further incidents of unfair discrimination or harassment, or unnecessary distress;
- 7.2.6 A process for **formal investigation of grievances** shall be available for cases where conciliation is inappropriate or has proved unsatisfactory;
- 7.2.7 Staff and students using these procedures **must not be victimised** on account of invoking their rights in law or the procedures established under this and related policies, and have the right to take action under these procedures if they believe that victimisation has occurred;
- 7.2.8 Appropriate steps shall be taken to ensure **psychological support** during and after the procedures;
- 7.2.9 All staff and students of the University shall be **informed of the policy** and procedures and that they may consult appointed Anti-Discrimination and Harassment Officers (ADHO's);

7.2.10 Nothing in this policy shall pre-empt the right of the individual to seek appropriate **legal redress outside the University;**

7.2.11 Frivolous or **vexatious complaints** will not be tolerated and may result in disciplinary action.

8 Roles and Responsibilities

8.1 Responsibilities and Roles

8.1.1 The policy is approved by the University Council. The Rector has oversight responsibility for the execution of the policy and he delegates the management of the policy to members of the Rector's Management Team, namely the Vice-Rector: Learning and Teaching and the Vice-Rector: Social Impact, Transformation and Personnel.

8.1.2 The Vice-Rector: Learning and Teaching and the Vice-Rector: Social Impact, Transformation and Personnel are jointly the owners of this policy and responsible for the policy being formulated, updated and implemented, as well as for a curator and complementary functionaries being appointed and functioning effectively.

8.1.3 The Senior Director: Student Affairs of the Division Student Affairs and the Chief Director: Human Resources are jointly responsible for the curation of the policy and must ensure that it is formulated, approved, reviewed, communicated, made available and implemented. The curators also have the final say, subject to the Rector's approval, in matters that apply to the policy, for example should a conflict of interest arise.

8.1.4 The Unit for Sexuality, Gender, HIV and Prevention of Discrimination (hereafter referred to as "the Unit"), as part of the Centre for Student Counselling and Development, serves as the office dealing directly with complaints of unfair discrimination and harassment for staff and students. The Director of the Centre for Student Counselling and Development has a managerial function and oversees all

activities of the Unit. The complaint procedures are set out as part of the protocol in Addenda A and B.

8.2 Implementation

The curators of the policy are responsible for the implementation of the policy from the effective date or the review date. The principles of this policy are applicable as soon as approval of the Stellenbosch University Council has been received.

8.3 Monitoring

The owners of the policy are accountable and the curators are responsible for the necessary controls being established to monitor the policy.

8.4 Reporting

The owner of the policy is accountable and the curators are responsible for the reporting on the policy by including an annual report to the Rector's Management Team. Statistical feedback of incidents and a profile of case-management must be submitted once a semester to the Vice-Rector: Learning and Teaching and the Vice-Rector: Social Impact, Transformation and Personnel, as owners of the policy.

8.5 Release

The curators, as advised by the Director: Legal Services, will disseminate information regarding completed cases.

8.6 Revision

The policy must be reviewed every five years, or sooner, if circumstances so dictate, or as deemed necessary.

8.7 Action in case of non-compliance

In case of non-compliance with the policy the custodian of the policy will investigate the actions, context, and possible reasons for non-compliance and advise on remedial actions. In cases of serious non-compliance, disciplinary procedures may be considered.

9. Supporting Documents

9. 1 Addendum A: Complaint procedures and promotional measures dealing with unfair discrimination and harassment

9.2 Addendum B: Complaint procedures and promotional measures dealing with sexual harassment

10. Related Documents

Botha, H.L., et al. Report of the Task Team on the Inquiry into Unacceptable Welcoming Practices: Stellenbosch University, 2014.

Higher Education Act 101 of 1997

Soudien, C., et al. Report of the Ministerial Committee on Transformation and Social Cohesion and the Elimination of Discrimination in Public Higher Education Institutions, 2008.

The Admissions Policy: Stellenbosch University (under review)

The Constitution of the Republic of South Africa, 108 of 1996

The Employment Equity Act (EEA) 55 of 1998

The Employment Equity Plan: Stellenbosch University

The HIV / AIDS policy for students and staff: Stellenbosch University

The Institutional Strategy and Intent (2013 – 2018): Stellenbosch University

The Language Policy: Stellenbosch University

The Policy on students and staff with special needs (disabilities): Stellenbosch University (under review)

The Promotion of Equality and the Prevention of Unfair Discrimination Act 4 of 2000

The sexual harassment policy and procedure for staff: Stellenbosch University (under review)

The Student Disciplinary Code: Stellenbosch University

ADDENDUM A: COMPLAINT PROCEDURES AND PROMOTIONAL MEASURES AGAINST UNFAIR DISCRIMINATION AND HARASSMENT

The Unit for Sexuality, Gender, HIV and Prevention of Discrimination⁴ is based, as one of five other units, at the Centre for Student Counselling and Development and will serve as the centralized one-stop service for staff and students for the reporting of complaints regarding unfair discrimination, victimization and sexual harassment.

The Unit consists of four staff members who specialize in support and educational services in matters like HIV/Aids, sexuality and gender. In addition, two positions have been created at the Unit for two Anti-Discrimination and Harassment Officers (ADHO's). The responsibilities of the Unit and the ADHO's are discussed accordingly.

1. Responsibilities: The Unit for Sexuality, Gender, HIV and Prevention of Discrimination (The Unit)

The Unit for Sexuality, Gender, HIV and Prevention of Discrimination (the Unit) shall have the following responsibilities:

- 1.1 To ensure that the policy is effectively communicated throughout the University;
- 1.2 To ensure awareness about this policy by continuing education and training;
- 1.3 To ensure that all orientation of staff and students includes education on fundamental constitutional rights, and the relevant SU policies, particularly the prohibition of all forms of unfair discrimination, harassment or victimisation;
- 1.4 To ensure that every staff member per Faculty and per Support Division is trained in terms of what the policy entails;
- 1.5 To ensure that student leaders (including mentors, house committee members, Student Representative Council members) are annually trained in terms of what the policy entails;
- 1.6 To ensure that the marketing material and contact details of the Unit are easily accessible;

⁴ The name of the Unit has not been finalized and will be referred to throughout the document as the Unit.

- 1.7 To formalize service level agreements with the Human Resources Division and the Transformation Office in order to collaborate on training, educational initiatives and awareness campaigns;
- 1.8 To conduct regular surveys on the nature of the institutional climate of SU, in terms of this policy, in collaboration with the Transformation Office;
- 1.9 To arrange a meeting with all necessary role players (Human Resources Division, Transformation Office, etc.) four times a year to enhance collaboration and conversation, as well as to share best practices;
- 1.10 To monitor the implementation of the policy and to provide regular feedback to the Director of the Centre for Student Counselling and Development (CSCD) as well as the Manager: Staff Wellness of Human Resources and the Head: Transformation Office;
- 1.11 To receive and assess complaints from students and staff and to ensure, facilitate and manage the effective functioning of investigations;
- 1.12 To submit reports once a semester to the Senior Director: Student Affairs as well as the Vice-Rector: Learning and Teaching and the Vice-Rector: Social Impact, Transformation and Personnel on the implementation of this policy in terms of case management, statistics and co-operation with role players.
- 1.13 An annual report will be submitted to the Rector's Management Team to provide an overview of case management, statistics and co-operation with role players.

2. Anti-Discrimination and Harassment Officers (ADHO's)

The Unit has two Anti-Discrimination and Harassment Officers (ADHO's). Their primary role is to provide comprehensive monitoring and evaluation as well as case management administration that prioritizes the needs of various affected parties. The one ADHO will be dedicated to dealing primarily with complaints regarding sexual harassment while the other ADHO will be dedicated to dealing primarily with complaints of unfair discrimination. The ADHO will not be fulfilling the role of a counsellor or psychologist but may inform the complainant about the availability of such services.

An ADHO will have the following responsibilities:

- 2.1 The ADHO has a role during the pre-intervention phase, the intervention phase, as well as during the post-intervention phase. The ADHO needs to have thorough knowledge of the different interventions available at Stellenbosch University (mediation, grievance procedures, disciplinary procedures, etc.);
- 2.2 To receive and assess complaints of unfair discrimination, harassment or victimisation;
- 2.3 To, after the assessment, manage the discrimination and harassment protocol ensuring that support, consultation and liaison are prioritized;
- 2.4 To explain the University's policies pertaining to unfair discrimination, harassment and victimisation and the procedures available for resolving complaints and grievances;
- 2.5 To provide information about the complainant's right to pursue external processes (for example the CCMA, Equality Court);
- 2.6 To provide relevant information regarding the referred case to the Advisory Panel;
- 2.7 To refer the complainant to a mediator, should this be the indicated intervention by the Advisory Panel. It is important that the ADHO have trained mediators who can assist with individual mediation, group mediation and community mediation;
- 2.8 To assist with training, as well as the educational work of the Unit;
- 2.9 To follow up with the complainant after the intervention as part of the post-intervention process and to determine whether any new needs developed for the complainant.

3. Advisory Panel

The ADHO will refer to the Advisory Panel, who will be appointed by the Director: Centre for Student Counselling and Development along with the Director: Legal Services. It is strongly recommended that the composition of the Advisory Panel is representative of gender and race to communicate sensitivity towards the accommodation of all identities. The final approval of the Advisory Panel is conducted by the Curators of the policy. The Advisory Panel serves as the body providing expert recommendations for the procedures to be followed.

3.1 Members of the Advisory Panel

- 3.1.1 There are two Advisory Panels – one Advisory Panel dealing with staff and one Advisory Panel dealing with students.
- 3.1.2 The Advisory Panel consists of a Chairperson and eight competent members with expertise and / or a good understanding of social justice, discrimination and / or sexual harassment;
- 3.1.3 The ADHO conducts an initial screening after an complaint from a student or staff member has been received, and submits the relevant information to the Chairperson of the Advisory Panel;
- 3.1.4 The Chairperson has the responsibility to compile an Advisory Panel from the eight members for each complaint received;
- 3.1.5 It is advised that four members be present for each investigation.

3.2 Functions of the Advisory Panel

- 3.2.1 To conduct the preliminary investigation;
- 3.2.2 To provide recommendations to the University regarding the way to proceed with the matter;
- 3.2.3 To communicate that mediation is viewed as a strong component of the intervention process;
- 3.2.4 To provide written feedback to the ADHO regarding the outcome of the investigation;
- 3.2.5 To make recommendations regarding the entity that can assist the Unit in taking the necessary steps to eliminate unfair discrimination, harassment and victimisation.
- 3.2.6 A written report, together with recommendations and feedback on the process followed, will be submitted to the curators of the policy – Senior Director: Student Affairs and Chief Director: Human Resources.

4. Procedures

- 4.1 It is important to note that the aim throughout the procedure is to serve the best interest of the complainant.

- 4.2 A complaint of unfair discrimination, harassment or victimisation must be brought to the attention of the Unit as soon as reasonably possible. It is advised that an email address be created for this purpose – unfair@sun.ac.za ;
- 4.3 Anonymous complaints will not be accepted but a Faculty / Division can be informed of such complaints;
- 4.4 Should the complaint be brought to the attention of a supervisor or line manager, that person must refer the complaint or assist the individual to report to the Unit;
- 4.5 A complainant consults an ADHO and receives clarification and advice on the following:
- 4.5.1 The ADHO initially assists the complainant by defining and assessing what happened;
 - 4.5.2 of the various formal procedures, and that he / she can choose either;
 - 4.5.3 of the various support services available to the complainant and a referral will take place, if necessary;
 - 4.5.4 that the University may, in certain circumstances like when it is in the interest of the University, the wider University community or sections of the University community, be obliged to follow the disciplinary procedure, even if the complainant does not wish to pursue this route;
 - 4.5.5 that the ADHO assisting him / her may not be called as a witness during any disciplinary procedure;
 - 4.5.6 that he / she retains the right to withdraw from any stage of the process but that the ADHO would like written feedback on the reasons for the withdrawal to ensure better understanding of the process and to address any matters where necessary;
 - 4.5.7 that the matter shall, as far as possible, be dealt with ethically and confidentially with the aim of honouring the dignity of the people involved. It is important that the boundaries of confidentiality are comprehensively defined and explained to the complainant ;
 - 4.5.8 of the availability of psychological, medical, legal or trauma counselling as well as how to access these services;
 - 4.5.9 of his / her right to obtain his / her own legal advice outside the University during the disciplinary process, should he / she wish to do so.

- 4.6 The ADHO completes a standardised, pre-approved screening instrument while assessing the complainant and reports it to the Director: Centre for Student Counselling and Development and the Chairperson of the Advisory Panel to arrange a formal meeting of the Advisory Panel.
- 4.7 The Advisory Panel shall consider all relevant information and recommend the University on the appropriate action to take. The recommendations and interventions could include mediation, activating a grievance procedure or proceeding with a complaint to the Central Disciplinary Committee.
- 4.8 The ADHO to contact the complainant after the procedures to offer post-intervention support;
- 4.9 Should the complainant not be satisfied with the procedures, the ADHO will provide written feedback to the Advisory Panel;
- 4.10 Should the complainant still be not satisfied after all the processes have been conducted, the ADHO will refer the complainant to the Ombudsman (ombudsman@sun.ac.za)

ADDENDUM B: COMPLAINT PROCEDURES AND PROMOTIONAL MEASURES AGAINST SEXUAL HARASSMENT

The Unit for Sexuality, Gender, HIV and Prevention of Discrimination (The Unit) is based, as one of five other units, at the Centre for Student Counselling and Development and will serve as the centralized one-stop service for staff and students for the reporting of complaints regarding unfair discrimination, victimization and sexual harassment.

The Unit consists of four staff members who specialize in support and educational services in matters like HIV, sexuality and gender. In addition, two positions have been created at the Unit for two Anti-Discrimination and Harassment Officers (ADHO's). One of the ADHO's specializes in dealing with complaints regarding sexual harassment. The responsibilities of the Unit and the ADHO's are discussed accordingly.

1. Responsibilities: The Unit for Sexuality, Gender, HIV and Prevention of Discrimination (The Unit)

The Unit for Sexuality, Gender, HIV and Prevention of Discrimination⁵(the Unit) shall have the following responsibilities:

- 1.1 To ensure that the policy is effectively communicated throughout the University;
- 1.2 To ensure awareness about this policy by continuing education and training;
- 1.3 To ensure that all orientation of staff and students includes education on fundamental constitutional rights, and the relevant SU policies, particularly the prohibition of all forms of unfair discrimination, harassment or victimisation;
- 1.4 To ensure that every staff member per Faculty and per Support Division is trained in terms of what the policy entails;
- 1.5 To ensure that student leaders (including mentors, house committee members, Student Representative Council members) are annually trained in terms of what the policy entails;
- 1.6 To ensure that the marketing material and contact details of the Unit are easily accessible;
- 1.7 To formalize service level agreements with the Human Resources Division and the Transformation Office in order to collaborate on training, educational initiatives and awareness campaigns;

⁵ The name of the Unit has not been finalized yet and to avoid confusion, it will be referred to throughout as the Unit.

- 1.8 To arrange a meeting with all necessary role players (Human Resources Division, Transformation Office, etc.) four times a year to enhance collaboration and conversation, as well as to share best practices;
- 1.9 To conduct regular surveys on the nature of the institutional climate of SU, in terms of the policy, in collaboration with the Transformation Office;
- 1.10 To monitor the implementation of the policy and to provide regular feedback to the Director of the Centre for Student Counselling and Development (CSCD) as well as the Manager: Staff Wellness of Human Resources and the Head: Transformation Office;
- 1.11 To receive and assess complaints from students and staff and to ensure, facilitate and manage the effective functioning of investigations;
- 1.12 To submit reports once a semester to the Senior Director: Student Affairs and the Vice-Rector: Learning and Teaching on the implementation of this policy in terms of case management, statistics and co-operation with role players.
- 1.13 An annual report will be submitted to the Rector's Management Team to provide an overview of case management, statistics and co-operation with role players.

2 Anti-Discrimination and Harassment Officers (ADHO's)

The Unit has two Anti-Discrimination and Harassment Officers (ADHO's). Their primary role is to provide comprehensive monitoring and evaluation as well as case management administration that prioritizes the needs of various affected parties. The one ADHO will be dedicated to dealing primarily with complaints regarding sexual harassment while the other ADHO will be dedicated to dealing primarily with complaints of unfair discrimination. The ADHO will not be fulfilling the role of a counsellor or psychologist but may inform the complainant about the availability of such services.

The ADHO will have the following responsibilities:

- 2.1 The ADHO has a role during the pre-intervention phase, the intervention phase, as well as during the post-intervention phase. The ADHO needs to have thorough knowledge of the different interventions available at Stellenbosch University (mediation, grievance procedures, and disciplinary procedures, etc.);
- 2.2 To receive and assess complaints of sexual harassment. All complaints of this nature lodged at the 24 Hour Crisis Service, Campus Security, Centre for Student Counselling and

Development, the District Surgeon, Hospitals or Emergency Services, Doctors or Faculty, must please be reported to the ADHO dealing with sexual harassment;

- 2.3 To, after the assessment, manage the sexual harassment protocol ensuring that support, consultation and liaison are prioritized;
- 2.4 In the case of rape, which is a criminal offense, the incident must simultaneously be reported to the South African Police Services (SAPS) for investigation. A statement must be made at the SAPS station and a dossier opened. The District Surgeon will concomitantly do a physical examination by completing a rape kit. The physical evidence will be sent away for DNA testing. During this process, the Advisory Panel will also investigate the complaint, to the extent that it is possible.
- 2.5 To explain the University's policies pertaining to sexual harassment and the procedures available for resolving complaints and grievances;
- 2.6 To provide information about the complainant's right to pursue external processes (for example the CCMA, Equality Court);
- 2.7 To provide relevant information regarding the referred case to the Advisory Panel;
- 2.8 To refer the complainant to a mediator, should this be the indicated intervention by the Advisory Panel. It is important that the ADHO have trained mediators who can assist with individual mediation, group mediation and community mediation;
- 2.9 To assist with training, as well as the educational work of the Unit;
- 2.10 To follow up with the complainant after the intervention as part of the post-intervention process and to determine whether any new needs developed for the complainant.

3 Advisory Panel

The ADHO will refer to the Advisory Panel, who will be appointed by the Director: Centre for Student Counselling and Development along with the Director: Legal Services. It is strongly recommended that the composition of the Advisory Panel is representative of gender, language and race to communicate sensitivity towards the accommodation of all identities. The recruitment of the Advisory Panel can be conducted in two ways – the compilation of a group of staff and students that adhere to the requirements by the two Task Teams, as well as recruiting by sending out a call to all staff and students at SU. The final approval of the

Advisory Panel is conducted by the Curators of the policy. The Advisory Panel serves as the body providing expert recommendations for the procedures to be followed.

3.1 Members of the Advisory Panel

- 3.1.1 There are two Advisory Panels – one Advisory Panel dealing with staff and one Advisory Panel dealing with students.
- 3.1.2 Each Advisory Panel consists of a Chairperson and eight competent members with expertise and / or a good understanding of social justice, discrimination and / or sexual harassment;
- 3.1.3 The ADHO conducts an initial screening after an complaint from a student or staff member has been received, and submits the relevant information to the Chairperson of the Advisory Panel;
- 3.1.4 The Chairperson has the responsibility to compile an Advisory Panel from the eight members for each complaint received. In the case of sexual harassment, a committee of provisional enquiry must be appointed within ten working days to conduct the investigation;
- 3.1.5 It is advised that four members be present for each investigation.

3.2 Functions of the Advisory Panel

- 3.2.1 To conduct the preliminary investigation;
- 3.2.2 To provide recommendations to the University regarding the way to proceed with the matter;
- 3.2.3 To communicate that mediation is viewed as a strong component of the intervention process;
- 3.2.4 To provide written feedback to the ADHO regarding the outcome of the investigation;
- 3.2.5 To make recommendations regarding the entity that can assist the Unit in taking the necessary steps to eliminate unfair discrimination, harassment and victimisation;
- 3.2.6 A written report, together with recommendations and feedback on the process followed, will be submitted within twenty working days to the curators of the policy – Senior Director: Student Affairs and Chief Director: Human Resources.

4 Procedures

- 4.1 It is important to note that the aim throughout the procedure is to serve the best interest of the complainant.
- 4.2 A complaint of unfair discrimination, harassment or victimisation must be brought to the attention of the Unit as soon as reasonably possible. It is advised that an email address be created for this purpose – unfair@sun.ac.za ;
- 4.3 Anonymous complaints will not be accepted but a Faculty / Division can be informed of such complaints;
- 4.4 Should the complaint be brought to the attention of a supervisor or line manager, that person must refer the complaint or assist the individual to report to the Unit;
- 4.5 A complainant consults an ADHO and receives clarification and advice on the following:
- 4.5.1 The ADHO initially assists the complainant by defining and assessing what happened;
- 4.5.2 of the various formal procedures, and that he / she can choose either;
- 4.5.3 of the various support services available to the complainant and a referral will take place, if necessary;
- 4.5.4 that the University may, in certain circumstances like when it is in the interest of the University, the wider University community or sections of the University community, be obliged to follow the disciplinary procedure, even if the complainant does not wish to pursue this route;
- 4.5.5 that the ADHO assisting him / her may not be called as a witness during any disciplinary procedure;
- 4.5.6 that he / she retains the right to withdraw from any stage of the process but that the ADHO would like written feedback on the reasons for the withdrawal to ensure better understanding of the process and to address any matters where necessary;
- 4.5.7 that the matter shall, as far as possible, be dealt with ethically and confidentially with the aim of honouring the dignity of the people involved. It is important that the boundaries of confidentiality are comprehensively defined and explained to the complainant ;
- 4.5.8 of the availability of psychological, medical, legal or trauma counselling as well as how to access these services;
- 4.5.9 of his / her right to obtain his / her own legal advice outside the University during the disciplinary process, should he / she wish to do so.

- 4.6 The ADHO completes a standardised, pre-approved screening instrument while assessing the complainant and reports it to the Director: Centre for Student Counselling and Development and the Chairperson of the Advisory Panel to arrange a formal meeting of the Advisory Panel.
- 4.7 The Advisory Panel shall consider all relevant information and recommend the University on the appropriate action to take. The recommendations and interventions could include mediation, activating a grievance procedure or proceeding with a complaint to the Central Disciplinary Committee.
- 4.8 The ADHO to contact the complainant after the procedures to offer post-intervention support;
- 4.9 Should the complainant not be satisfied with the procedures, the ADHO will provide written feedback to the Advisory Panel;
- 4.10 Should the complainant still be not satisfied after all the processes have been conducted, the ADHO will refer the complainant to the Ombudsman (ombudsman@sun.ac.za)

ADDENDUM C: GRAPHIC PRESENTATION OF THE PROPOSED PROCESS – COMPLAINT BY A STUDENT

Student can contact in case of a complaint:

24 Hour Crisis Service / Campus Security / District Surgeon / Hospitals/ER24 / CSCD / Doctors / Faculty & Staff / The Unit directly (unfair@sun.ac.za)

Referral to the Unit



Support Services (Optional)

Centre for Student Counselling and Development
 Crisis Intervention
 Free Psychological Care/ Psychotherapy
 Referral to Psychiatrist if indicated
 Any other referrals as necessary

In cases of rape additional steps need to be taken, which have not been outlined here as this serves as only a basic outline of the Unit's role.

The Unit for Sexuality, Gender, HIV and Prevention of Discrimination (@MatieSURpass)



Chairperson: Advisory Panel for Students
 Advisory Panel preliminary investigation



Mediate (individual, group, community)
 Disciplinary Process (Central Disciplinary Committee)
 Feedback provided to Unit and Unit assists with recommendations from investigation
 The Unit completes post-intervention process by following-up with complainant



ADDENDUM D: GRAPHIC PRESENTATION OF THE PROPOSED PROCESS – COMPLAINT BY A STAFF MEMBER

Staff can contact in case of a complaint:

Human Resources / Dean / Head of Department / The Unit directly (unfair@sun.ac.za)

Referral to the Unit



Support Services (Optional)

- Human Resources
- Free Psychological Care/ Psychotherapy
- Referral to Psychiatrist if indicated
- Any other referrals as necessary

In cases of rape additional steps need to be taken, which have not been outlined here as this serves as only a basic outline of the Unit's role.

The Unit for Sexuality, Gender, HIV and Prevention of Discrimination (@MatieSURpass)



Chairperson: Advisory Panel for Staff
Advisory Panel preliminary investigation



Mediate (individual, group, community)
Disciplinary Process (Central Disciplinary Committee)
Feedback provided to Unit and Unit assists with recommendations from investigation
The Unit completes post-intervention process by following-up with complainant



**SEXUAL HARASSMENT:
POLICY AND PROCEDURE FOR STAFF**

SEXUAL HARASSMENT: POLICY AND PROCEDURE FOR STAFF

1. POLICY ON SEXUAL HARASSMENT

1.1 Aim

The University of Stellenbosch is committed to creating an environment free of sexual harassment. Wherever sexual harassment occurs it impinges on the basic human rights of the individual and it undermines the values contained in the South African Constitution, as well as the integrity of the University.

The main aim of the University's policy on sexual harassment is to prevent the occurrence of sexual harassment. The University expects that all its students, staff and management will refrain from all forms of sexual harassment.

1.2 Definition

Sexual harassment refers to behaviour typically experienced as offensive, by means of which sexual approaches are made within the context of a relationship of equal/unequal power or authority. Sexual harassment is a form of discrimination on the grounds of gender. It is unwanted and may be experienced as an expression of power, authority and control of a sexual nature. It creates a hostile environment that impedes the individual's capacity to learn and/or work.

1.3 Different forms of sexual harassment

There are divergent perceptions of what constitutes sexual harassment. It ranges from unwelcome sexual attention, sexist or suggestive remarks, bribery/extortion (eg. positive rewards for sexual favours) to aggressive behaviour, such as attempted or actual rape.

Sexual harassment thus covers a broad spectrum of unwanted behaviour and includes amongst other:

- i. **Verbal forms** such as unwelcome enquiries regarding a person's sex life, telephone calls with a sexual undertone, continuous rude or sexist jokes/remarks, unwelcome requests for dates, remarks about a person's figure, etc.
- ii. **Non-verbal forms** such as gestures with a sexual meaning, leering, continuous unwelcome flirtation, etc.
- iii. **Visual forms** such as exhibiting pornographic photos, comics, objects, etc. that create a hostile environment.
- iv. **Physical forms** such as unwelcome contact through patting, pinching, fondling, kissing, pawing, assault, molesting and rape.
- v. **Quid pro quo forms** such as sexual bribery (eg. promising a promotion in return for granting sexual favours) and sexual extortion (eg. refusal to promote an individual if he/she does not consent to granting sexual favours).

1.4 The victims

Both men and women may be victims of sexual harassment. Sexual harassment may occur equally between members of the same sex as between members of the opposite sex.

1.5 The perpetrators

The perpetrator may be a senior, equal or junior person.

2. **PROCEDURE FOR MANAGING CLAIMS OF SEXUAL HARASSMENT (Please also refer to Annexure A)**

Should staff members experience or be aware of sexual harassment the following procedure is to be followed:

- 2.1 Where it is a minor and isolated incident, confront the 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.

- 2.2 Should the harassment continue, or if it is of a serious nature, then the divisional/departmental head or the chair of the relevant staff association/trade union should be informed verbally and/or in writing. The latter person will refer the matter in writing, within five working days to the chair of the *Advice Forum on Sexual Harassment*. In cases where the person who is being harassed does not wish to refer the matter to his/her divisional/departmental head or the chair of the relevant staff association/trade union, for whatever reason, he/she may refer the matter directly, in writing to the chair of the *Advice Forum on Sexual Harassment*.
- 2.3 The *Advice Forum on Sexual Harassment* is a forum consisting of nine competent members who are appointed by the rector for a fixed term of three years. The members are, as far as possible, representative of the various staff interest groups. The members choose the chair.
- 2.4 If a referral as described in 2.2 occurs, the chair of the *Forum* appoints, within ten working days, a committee of provisional enquiry, consisting of three members of the *Forum*. A recommendation is submitted by the chair of the *Forum* to the rector in order to mandate this Commission of Provisional Enquiry to investigate in terms of paragraph 3.(2) of the Disciplinary Procedure, the allegation of sexual harassment.

(Paragraph 3.(2) of the Disciplinary Procedure reads as follows:

“The Rector and Vice Chancellor may appoint a committee consisting of one or more members of staff, as soon as possible, to conduct provisional investigations into any allegations brought to its attention, or the behaviour of a staff member that may possibly constitute misconduct, and request the committee to submit a written report. The committee of provisional inquiry may consult with, or obtain information from anyone including the person against whom the allegation or claims have been made.”)

- 2.5 The role of the committee of provisional inquiry into sexual harassment will firstly be a fact-finding role. Upon completion of this task, the committee of provisional inquiry will apply mediation as a dispute resolution procedure. A written report, together with recommendations, in terms of paragraph 3.(2) of

the Disciplinary Procedure, will be submitted within twenty working days to the Rector.

- 2.6 All matters considered in terms of the previous paragraphs are to be treated with the highest degree of confidentiality.
- 2.7 Depending on the degree of seriousness, and should mediation be unsuccessful, the matter will then be managed further in terms of paragraph 3.(3) or 3.(4) of the Disciplinary Procedure.

(Paragraph 3.(3) of the Disciplinary Procedure reads as follows:

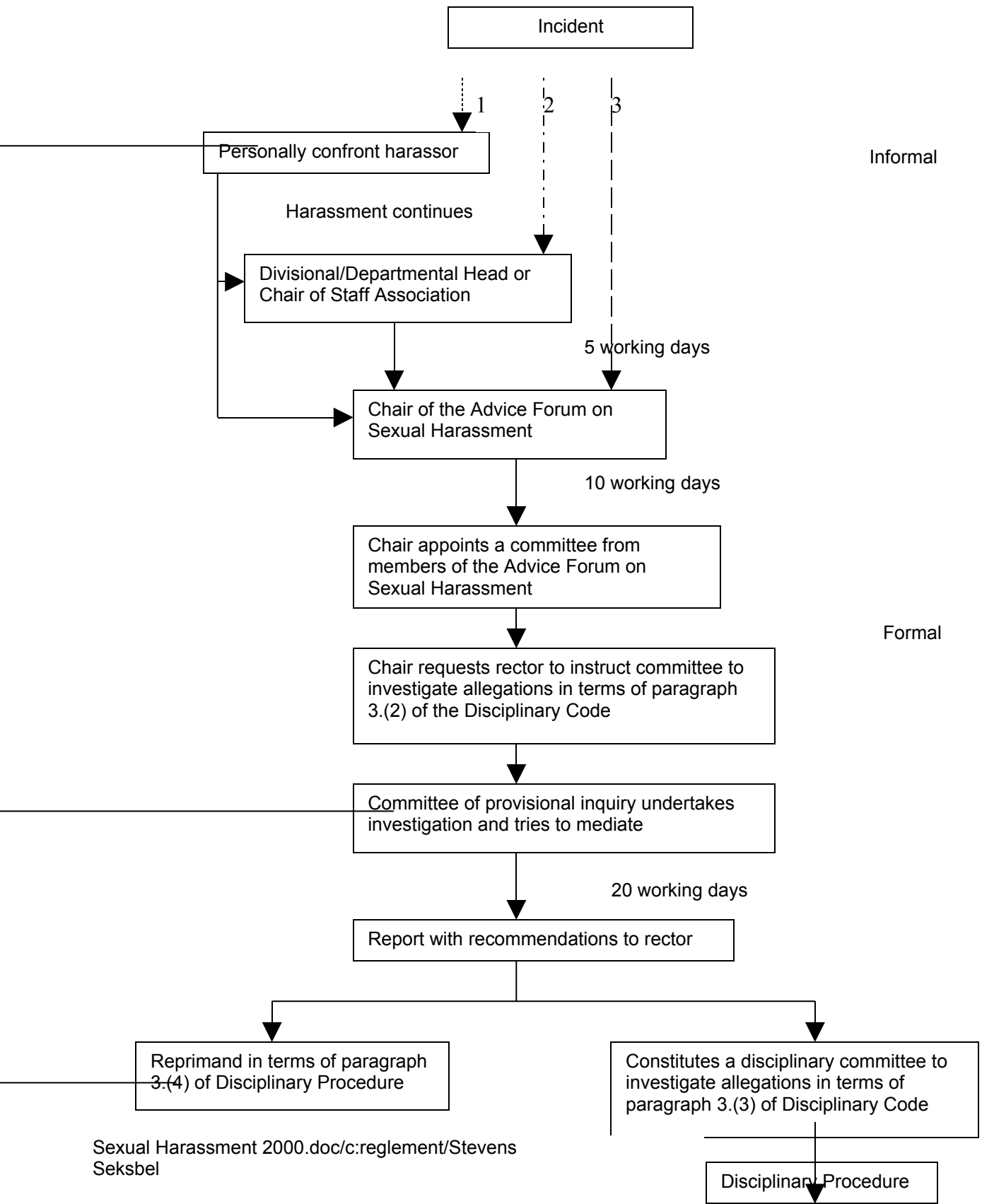
“Should the Rector and Vice Chancellor be of the opinion that there are reasonable grounds for a charge of misconduct against a member of staff and that the alleged action(s) by the staff member justify a ruling in terms of the provisions of sub-paragraph (11), he may appoint a disciplinary committee and order that a hearing be held by this committee.”

Paragraph 3.(4) of the Disciplinary Procedure reads as follows:

“Should the Rector and Vice Chancellor be of the opinion that the staff member’s alleged misconduct is of such a nature that it does not justify a hearing by a disciplinary committee, but that it is nevertheless serious enough to justify a reprimand against the staff member, he may, after considering any pleas by the staff member in this connection, direct such a reprimand to him/her.”)

ANNEXURE A

PROCEDURE: SEXUAL HARASSMENT



HIV/AIDS POLICY FOR STUDENTS AND STAFF

STELLENBOSCH UNIVERSITY



HIV/AIDS POLICY FOR STUDENTS AND STAFF

2011

1. List of definitions of abbreviations, acronyms and key concepts (see Appendix 1)

2. Preamble

2.1 Institutional understanding of the HIV/Aids pandemic

The human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (Aids) pandemic has grown to be the greatest public health crisis to face the world since the 13th century. The scourge of HIV/Aids is no longer merely a health issue or a scientific problem, but a multidimensional human crisis with social, economic, cultural and psychological dimensions. The impact of the HIV/Aids pandemic is so significant that it demands a response from all sectors of South African society (HEAIDS, 2009).¹

As one of the institutions that is set to play a fundamental role in developing leaders who will shape the country's economy and communities, as well as national and global governing bodies, Stellenbosch University (SU) has much to contribute to current HIV/Aids prevention of transmission, care and support strategies. With a student population that is representative of the HIV/Aids high-risk age category, SU has the ideal opportunity to utilise a variety of support and educational resources to encourage health-seeking behaviour. In addition, SU can ensure that students graduate equipped with the essential skills that will enable them to make a positive contribution to the South African HIV/Aids response, as agents of change within their family, community and workplace. By empowering students and staff at SU, we shall help to ensure an impact that extends far beyond the boundaries of both SU and the Western Cape.

SU, as an institution, is inseparable from the town and region in which it is located. By enabling students and staff to deal with personal risks and to assume a leadership role, the actions of SU

¹ HEAIDS. (2009). *Policy framework on HIV and Aids for higher education in South Africa*. Pretoria: Higher Education South Africa.

will also impact on the immediate surrounding communities and model the appropriate response for local corporate partners and influential leaders.

2.2 Vision and mission statement

With its vision of an outward-orientated institution of excellence, SU considers HIV/Aids education, research and community interaction as both a leadership and a wellness issue. Consequently, SU has adopted the following vision as a comprehensive institutional response to HIV/Aids.

SU envisions an institution free of new HIV infections by 2012. By working together, SU management, the institutional units, staff and students shall facilitate the required level of leadership, health-seeking behaviour and quality education to effectively respond to the challenges posed by HIV/Aids in South Africa and the rest of the African continent.

Such a vision demands the following:

- The prioritisation of prevention as a key strategy
- Joint endeavour by the various disciplines
- The committed participation of both students and staff
- The positioning of SU as a leader in the field of HIV/Aids, in striving to make a tangible impact on HIV/Aids-related challenges throughout Africa

2.3 Legal framework

SU recognises that the application of its policy must occur within the framework of the existing South African HIV/Aids-related legislation.

Such legislation includes, but is not limited to, the following acts and code:

- The Constitution of South Africa, Act No. 108 of 1996
- The Employment Equity Act, No. 55 of 1998
- The Labour Relations Act, No. 66 of 1996
- The Occupational Health and Safety Act, No. 85 of 1993
- The Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993
- The Code of Good Practice, 1 December 2000, relating to key aspects of the approach to the handling of HIV/Aids

International instruments of relevance to the application of the SU HIV/Aids policy include, but are not limited to, the following:

- The Universal Declaration of Human Rights
- The Human Rights Charter
- The African Charter of Human and People's Rights

National policy developments of relevance to the application of the policy include, but are not limited to, the following:

- The Department of Education's National Policy on HIV and Aids
- The Department of Labour's Guidelines to Employers
- The Department of Health's National Strategic Plan

3. Purpose of the policy

The purpose of the policy is to guide and inform SU in doing the following:

- Reducing the rate of HIV transmission and the impact of HIV/Aids on SU's students and staff
 - Facilitating a comprehensive leadership response to be adopted in managing the effect of HIV/Aids on SU's students and staff
 - Evaluating and integrating HIV/Aids curricula responses
 - Mobilising and safeguarding human and other resources
 - Minimising the long- and short-term impact risk for SU
- Destigmatising HIV/Aids

4. Institutional policy objective

The primary objective of the policy is to set out guidelines in terms of which SU can do the following:

- Fulfil its leadership role with regard to HIV/Aids
- Empower the student body with the relevant personal and professional skills for mitigating the impact of HIV/Aids on their present and future communities
- Make a positive contribution to the production and dissemination of quality research relating to HIV/Aids
- Help to protect human rights and ensure human justice for all those based at SU through the formulation and implementation of HIV/Aids-related policies and practices

- Contribute to holistic HIV prevention by reducing the levels of stigma attached to HIV/Aids as well as the rate of HIV transmission

5. Scope of the policy

The policy is applicable to the following entities:

- All employees, including temporary, permanent and contractual staff
- All undergraduate and postgraduate students enrolled at SU
- All campuses (everyone with a student/staff number are included in the policy)

6. Activity programme directed at achieving institutional HIV/Aids policy objectives

See Appendix 2 for the comprehensive implementation plan

7. Institutional approach to maintaining an HIV/Aids-safe environment

SU has an obligation to provide a safe working and study environment, in which people living with HIV and Aids (PLWHAs) are free from stigma and discrimination. In such an environment, exposure to HIV is minimised, and ongoing awareness and prevention activities for students and staff are organised.

SU commits itself to the following:

- The promotion of equality and non-discrimination among all those infected or affected by HIV/Aids
- The creation of a supportive environment in which HIV-infected students and staff are able to continue their studies and to work under normal conditions in the SU environment for as long as they are medically fit to do so
- The protection of human rights and the dignity of PLWHAs as an inherent requirement for the prevention of transmission and control of HIV

HIV/Aids-related potential discrimination shall be addressed through measures such as the following:

- Information, education and communication programmes aimed at addressing the rights of all people with regard to HIV/Aids

- The provision of clear referral and support routes for all students and staff infected or affected by HIV/Aids with regard to counselling, medical treatment and psychosocial support
- Grievance procedures and disciplinary measures directed towards dealing with HIV/Aids-related complaints

7.1 Promoting a safe environment

SU shall provide and maintain, as far as it is reasonably practical, an environment that is safe and without risk and discrimination to the health of its students and staff.

All faculties and/or departments should ensure that they apply universal precautions and comply with the provisions of the Occupational Health and Safety Act, including the Regulations on Hazardous Biological Agents.

The above provisions include the following:

- The implementation of appropriate information, education and communication programmes promoting control measures aimed at identifying, dealing with and reducing the risk of HIV transmission in the academic environment
- The supplying of appropriate equipment and materials to protect students and staff from the risk of exposure to HIV (e.g. gloves)
- The communication of a clear protocol to which to adhere following an accident, including the facilitation of the appropriate access to post-exposure prophylaxis (PEP)
- The reporting of all related incidents.
- The adequate monitoring of student and staff exposed to HIV

7.2 Student admissions

SU is opposed to HIV testing of prospective or returning students as a means of determining whether such students can be admitted, readmitted or found suitable for any programmes offered by the University. The HIV status of students shall not be deemed relevant for the purposes of selection in the above regard.

Known HIV status shall not be a consideration in the awarding of financial aid to students. Testing for HIV status shall also not serve as a prerequisite in respect of the awarding of student loans.

A student who has failed to successfully fulfil his/her previous academic requirements as a direct result of being HIV positive, and who has accordingly been academically excluded from admission to SU, shall have the same rights as all other students who have been excluded on such academic grounds.

A student who has failed to fulfil his/her academic or financial requirements as a direct result of being HIV positive and who has consequently been denied financial assistance by SU shall have the same rights as all other students who have been denied such financial assistance.

Students living with HIV/Aids are expected to attend classes in accordance with SU's rules and requirements for as long as they are able to do so effectively. The stage of HIV/Aids-related illness should be considered under medical advisement if a student is unable to fulfil the requirements of his/her learning obligations.

An HIV-positive status shall not be a valid ground for the exclusion of students from SU.

7.3 Promoting a non-discriminatory SU work environment

7.3.1 No PLWHAs shall be unfairly discriminated against in terms of the employment relationship or any employment policies or practices, specifically with regard to

- recruitment procedures, advertising and selection criteria;
- appointments, and the appointment process, including job placement;
- job classification or grading;
- remuneration, employment benefits and terms and conditions of employment;
- employee-assistance programmes;
- job assignments;
- the workplace and facilities;
- occupational health and safety;
- training and development;
- performance-evaluation systems;
- promotion, transfer and demotion;
- disciplinary measures short of dismissal; and
- termination of service.

7.3.2 Reasonable accommodation

SU may reasonably accommodate the special needs of staff living with, or directly affected by, HIV/AIDS on a case-by-case basis, subject to the overall requirements of the institution.

Reasonable accommodation may include flexible working hours and time off for counselling and medical appointments, extended sick leave, transfer to lighter duties, part-time work, and return-to-work arrangements.

7.4 HIV testing, confidentiality and disclosure

7.4.1 HIV testing

SU shall not require any staff member, student or applicant for enrolment to undertake an HIV test in order to ascertain that individual's HIV status.

Permissible testing

SU may offer HIV testing to a student or staff member who has requested a test in the following circumstances:

- As part of SU's general health care service provision or voluntary counselling and testing (VCT) campaigns
- In the event of an incident carrying a risk of exposure to blood or other body fluids

Furthermore, such testing shall take place in terms of the following conditions:

- With the informed consent and pre- and post-test counselling of the student or staff member concerned
- In terms of strict procedures relating to the confidentiality of the individual's HIV status (as described in 7.4.2)

All testing shall be conducted in accordance with the Department of Health's National Policy on Testing for HIV, which was issued in terms of the National Policy for Health Act, No. 116 of 1990.

Anonymous, unlinked surveillance or epidemiological HIV testing may take place in the SU environment, provided it is undertaken in accordance with the relevant ethical and legal principles regarding such research. Where such research is undertaken, the information

obtained may not be used to discriminate unfairly against individuals or groups of people. Testing shall not be considered anonymous if there is a reasonable possibility that a person's identity and HIV status can be deduced from the results.

7.4.2 Confidentiality and disclosure

Should a person undergo an HIV test, the result of the test is to remain confidential between the individual and the person authorised to supply the test result.

All PLWHAs have the legal right to privacy. Therefore, no student or staff member is legally required to disclose his/her HIV status, either to the SU or to fellow students or colleagues.

Where a breach of confidentiality occurs, disciplinary steps must be taken against the person in breach of such confidentiality.

Should an individual choose to voluntarily disclose his/her HIV status to the SU or to others, such information may not be disclosed without the person's written consent. Should written consent not be possible, steps must be taken to confirm that the person wishes to disclose his/her status.

Openness, acceptance and support for individuals who voluntarily disclose their HIV status shall be promoted by

- encouraging those students and staff living openly with HIV or Aids to conduct, or participate in, information, education and communication programmes;
- encouraging the development of a comprehensive referral system for students and staff living with HIV or Aids; and
- ensuring that individuals who are open about their HIV status are not unfairly discriminated against or stigmatised.

7.5 Related issues

7.5.1 Most-at-risk populations

The particularly vulnerable position of most-at-risk populations (MARPs) must be recognised. In the latest South African National HIV Survey, the definition of MARPs was expanded to include the following categories of people:

- African women between the ages of 20 and 34 years
- African men between the ages of 25 and 49 years

- Men older than 50 years
- Men who have sex with men (MSM)
- People who are high-risk drinkers
- People who use drugs for recreational purposes
- People with disabilities (South African National HIV survey, 2008).²

In addition, recognition is given the fact that women in general are more vulnerable to HIV infection due to physical, social and economic reasons. The growing number of injecting drug users (IDU) should also be considered in this discussion of MARPs. In recognising such at-risk populations, SU also acknowledges the role of discrimination, marginalisation and inequality as key contributors to the vulnerability of such populations.

SU is therefore committed to creating an environment in which the principles of equality and human dignity are prioritised, in which all forms of discrimination are condemned, and in which proactive attention is given to sensitise support services to the specific needs of vulnerable students and staff. The importance of maintaining equitable relations within a diverse campus community is emphasised as a key requisite for ensuring an HIV-safe campus.

7.5.2 Rape, sexual abuse and gender-based violence

Incidents of rape, sexual abuse and gender-based violence (GBV) can all increase the risk of HIV transmission and of HIV/Aids-related discrimination and prejudice. Although such issues have been prioritised in awareness and education campaigns, SU urges its students and staff to educate themselves on the risk of transmission in these circumstances by using the link on SU's homepage to visit the HIV/Aids awareness site at www.sun.ac.za/hiv.

SU has safety and health officials who are equipped to provide counselling and emergency PEP treatment, according to the protocol, to any student or staff member who is raped or who becomes subject to the possible transmission of the virus by means of an injury caused by a sharp object,. ***See appendices 3 and 4 for a complete outline of the protocol followed and the services available.***

² Shisana O, Rehle T, Simbayi LC, Zuma K, Jooste S, Pillay van Wyk V, Mbelle N, Van Zyl J, Parker W, Zungu NP, Pezi S & The SABSSM III Implementation Team. (2009). *South African national HIV prevalence, incidence, behaviour and communication survey 2008: A turning tide among teenagers?* Cape Town: HSRC Press.

7.6 Education and awareness

SU shall continue to prioritise prevention interventions as key to mitigating the impact of the pandemic through initiatives and activities that inform its students and staff of HIV/Aids-related issues. Such interventions shall include the presentation of workplace programmes to staff, the provision and promotion of VCT among its students and staff, the increasing accessibility of condoms and the treatment of sexually transmitted infections (STIs). (See the Implementation Plan.)

HIV/Aids-related information, education and communication material shall be made available to SU students and staff through the Office for Institutional HIV Coordination (OIHC).

Students and staff members shall be encouraged to become involved in HIV/Aids-related initiatives and activities, both on campus and in their wider communities.

All new students and employees shall be encouraged to complete the e-learning module for students or staff and SU shall maintain, as part of its website, information on HIV/Aids-related activities and links to local and international organisations.

Important international and national public holidays and other relevant commemorative days shall be used to raise HIV/Aids awareness and to provide education.

7.7 Obligations and responsibilities of SU students and staff

Members of the SU community are responsible for protecting themselves and others from HIV infection. They should also all learn about all aspects of HIV/Aids-related prevention, care and support, as well as about how to alleviate the impact of HIV/Aids.

Those students and employees living with HIV/Aids are ethically, morally and legally obliged to behave in such a way as to pose no threat of infection to others. They are urged to seek medical advice to ensure that they are capable of living as healthy and productive a life as possible.

All members of the SU community, including those with HIV/Aids, are expected to perform the duties assigned to them. Unless medically justified, no student may use his/her HIV/Aids status as an excuse for absence from scheduled classes, assignments, tests and examinations or non-compliance with study/course requirements or any other academic activities. Likewise, no member of staff may use his/her HIV/Aids status as an excuse for failing to come to work or to complete his/her duties, unless medically justified.

7.8 Grievance procedures

Any HIV-positive student or staff member shall have recourse to the existing grievance procedures in the event of a breach of any of their HIV- and Aids-related rights by fellow students or SU personnel.

Students can contact the Centre for Student Affairs for any enquiries regarding the grievance procedures. Staff members can contact the Wellness Coordinator at Human Resources in regard to such procedures.

SU shall, as far as reasonably possible, ensure the confidentiality of the complainant during such proceedings. As part of the conditions relating to such confidentiality, the related proceedings shall be held in private.

8. Advocacy communication and marketing

As policy development and implementation is a dynamic process, SU's HIV/Aids policy should conform to the following criteria. The policy should

- be communicated to all existing students and staff, as well as to all new students and staff on admission to SU;
- be routinely reviewed in the light of emerging epidemiological and scientific information;
- be monitored on an ongoing basis in order to ensure its successful implementation; and
- be regularly evaluated for its effectiveness.

9. Implementation, monitoring and evaluation

9.1 Governance, management roles and accountabilities

In respect of the HIV/Aids policy, the following governance bodies have the management roles and responsibilities described below.

- **Council**

Council is responsible for the existence and monitoring of the implementation of the HIV/Aids policy.

- **Institutional Management**

Institutional Management is responsible for the coordination, implementation and realisation of the HIV/Aids policy throughout SU with regard to the process systems, procedures, budget and resources required.

- **Line managers**

The line managers are directly responsible for ensuring adherence to the policy procedures and guidelines.

- **HIV Institutional Coordinating Committee**

The HIV Institutional Coordinating Committee (HICC) is responsible for

- supporting the execution of the strategic and operational plans of the policy;
- advising HIV programme implementers;
- identifying areas of concern that are related to the institutional HIV plan and that require future intervention;
- monitoring HIV programmes and service delivery;
- assuring the strategic and operational integration of the HIV plan on an institutional level;
- establishing advocates to strengthen the programme's role; and
- promoting internal and external cooperation regarding HIV/Aids-related issues.

- **The Office for Institutional HIV Coordination**

The OIHC shall

- act as the secretariat for the execution of the policy and report staff and community interaction to the Vice-Rector;
- be responsible for producing an annual report that describes all initiatives undertaken by SU in relation to HIV/Aids-related prevention, care and support, research and impact mitigation;
- be responsible for providing leadership in the development, implementation, monitoring and evaluation of the HIV/Aids policy and plan;
- collaborate with the Centre for Student Affairs and the divisions of Human Resources and Communication and Liaison to ensure that all current and future students and staff are provided with online access to the policy, as well as to access to training regarding HIV/Aids-related prevention, care, support and impact mitigation; and
- evaluate and review policy of relevance to national and international developments in the field of HIV/Aids.

Appendix 1: Definitions of abbreviations, acronyms and key concepts

Affected person	A person who is affected in any way by HIV/Aids, for example because he/she has a partner or a family member who is HIV positive.
Aids	Aids is the acronym for “acquired immune deficiency syndrome”. Aids is the clinical definition given to the onset of certain life-threatening infections in people whose immune systems have ceased to function properly as a result of being infected with HIV.
Comprehensive institutional HIV/Aids response	The response of higher education institutions to HIV/Aids is entrenched in their mandate to undertake advanced teaching and to prepare their graduates for the assumption of responsible roles in the world of work. Such a response embraces the performance of research, the sharing of knowledge and the provision of intellectual leadership. Through their response, campus communities provide nurturing and enlightened environments for both students and staff.

DRD	DRD is the abbreviation for the “Division of Research Development”.
Epidemiological	The term “epidemiological” refers to that which relates to the scientific study of disease patterns, the causes of such diseases, their distribution and the mechanisms of disease control employed within a society.
GBV	GBV is the abbreviation for “gender-based violence”. GBV is any act of violence that is perpetrated against an individual due to his/her gender. Gender identity and biological sex are not always identical. Most often, the term is used to describe violence against women and girls, including rape, sexual assault, sexual coercion and domestic or community violence. Such violence is a major public health problem and an important risk factor in the transmission of HIV.
HICC	HICC is the abbreviation for the “HIV Institutional Coordinating Committee”. The HICC plays an advisory role regarding the strategic implementation of a comprehensive HIV/Aids plan at SU. Furthermore, the HICC serves as SU’s interest group forum for consultation on issues relating to HIV/Aids prevention of transmission, education and service delivery to students and staff. The HICC also acts as the institutional contact point for the Higher Education HIV and Aids Programme (HEAIDS). The HICC therefore offers strategic and operational guidance to the role players responsible for the implementation of a comprehensive institutional HIV/Aids plan and fills a leadership function in the assurance of a shared responsibility for the successful implementation of the plan.
HIV	HIV is the abbreviation for the “human immunodeficiency virus”. HIV is a virus that attacks, and that might ultimately destroy, the human body’s natural immune system.
HIV testing	HIV testing consists of taking a medical test to determine a person’s HIV status.
HIV positive	Someone who is HIV positive has tested positive for the presence of HIV in his/her body.

IDU	IDU is the abbreviation for “injection drug user/use”. Individuals, who take drugs intravenously, using needles or syringes, are called IDUs. They are at high risk of contracting HIV, and might be the source of localised epidemics. Such drug use is also a leading risk factor in so-called second-wave countries, such as Vietnam or China, where the transmission of HIV is spreading rapidly.
Informed consent	Such consent means that an individual has been provided with, and understands, all the relevant HIV/Aids-related information, based on which he/she has agreed to undertake the HIV test. Such consent implies that the individual understands what the test is, why it is necessary, and what the benefits, risks and possible social implications as well as the alternatives to the outcome are.
MARP	MARP is the abbreviation for “most-at-risk population”. Such a population can be found in an environment that is characterised by a concentration of risk behaviours that facilitate the transmission of HIV and that may drive the majority of new infections. Risky behaviours that put people at greater risk of HIV infection include high rates of the following practices: having unprotected sexual partnerships, having unprotected anal sex with multiple partners and injecting drugs using shared equipment and preparations.
MSM	MSM is the abbreviation for “men who have sex with men”. Anal sexual intercourse is one mode of HIV transmission.
OIHC	OIHC is the abbreviation for the “Office for Institutional HIV Co-ordination”.
PLWHAs	PLWHAs is the abbreviation for “people living with HIV and Aids”.
Pre- and post-test counselling	Such counselling facilitates an understanding of the nature and purpose of the HIV test. During such counselling, both the advantages and the disadvantages of knowing the results of the test are explained to the person who intends to undergo the testing. By such means, they become aware of the influence that knowing result of whether they are HIV positive or

	negative is likely to have on them. Such influence includes the effect of the result on the individual and his/her intimate partners and family. Counselling may include referral for treatment, if necessary.
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PEP	PEP is the acronym for “post-exposure prophylaxis”, which is a short-term antiretroviral treatment aimed at reducing the likelihood of HIV infection after potential exposure, whether occupationally or through sexual intercourse.
Reasonable accommodation	Reasonable accommodation means any modification of or adjustment to a job or workplace that is practicable and financially sound, and which will enable the employee living with HIV or Aids to have access to, or to participate or advance in, employment.
STI	STI is the abbreviation for “sexually transmitted infection”. Examples of such an infection, which is passed from one person to another during sexual intercourse, include syphilis, gonorrhoea and HIV.
Student	<p>A student is any person who is formally admitted to enrol for academic programmes offered by a university, such as SU.</p> <p>By ‘student’, the University means any person:</p> <ul style="list-style-type: none"> who is registered as a student at the University;* who has already taken his place in University accommodation or has taken part in any activities that are related to the welcoming and integration of newcomer students before his registration as a student at SU, but with the intention to register; who has started or participated in any academic activities before his registration as a student at SU, but with the intention to register; who was previously registered as a student at SU, returns to any campus of SU, and plans to register as a student again that year; who represents the University on or away from campus in academic, sport, cultural or other official activities after registration at SU; or has already completed his studies at SU but has committed some misconduct before obtaining his degree. <p>* SU students who study within the context of a partnership agreement (for example at the Military Academy at Saldanha, the Cape Institute for Agricultural Training: Elsenburg, or the Huguenot College in Wellington) are subject to the University’s disciplinary code for students, unless alternative arrangements have been made with regard to those students</p>

	<p>in the official agreements between SU and the partner institution concerned.</p> <p>In signing the application form of the University, a student agrees to acquaint himself with all the rules, regulations, policy and other provisions of the University, and ignorance of any such provision cannot be offered as defence against a charge of contravening such provision.</p>
Universal precautions	<p>Universal precautions are a set of precautions designed to prevent the transmission of HIV, the hepatitis B virus (HBV) and other blood-borne pathogens when providing first aid or health care. In terms of such precautions, blood and certain other body fluids of all patients are considered potentially infectious for such pathogens.</p>
VCT	<p>VCT is the abbreviation for “voluntary counselling and testing”.</p> <p>Many physicians and community-based health care workers screen people for HIV in this way. They talk to people about the risk behaviours that they might be practising, assess individual levels of risk, discuss ways in which to protect oneself and others from the transmission of HIV and provide related testing and counselling. (See also the explanation of “pre- and post-test counselling” above.)</p>

Appendix 2

Activity programme directed at achieving institutional HIV/Aids policy objectives

The following framework details the objectives, expected results, indicators, activities and resources needed to achieve the policy objectives.

6.1 Leadership

	Intervention logic	Verifiable indicators of achievement	Responsible structure/committee/unit	Available resources/budget
Overall objective	To provide strong, committed internal leadership to strategically drive the institutional response to HIV/Aids			
Specific objectives	To ensure the appropriate level of strategic internal leadership to manage and guide the comprehensive institutional response to HIV/Aids through the HICC and the OIHC	Approval of the HIV/Aids policy, including a strategic plan aligned to the HEAIDS Higher Education Policy Framework Design of an organogram detailing structures and responsibilities in respect of established leadership, management and coordination		
Expected results	Institutionalised structure(s) for leading, managing, coordinating and monitoring the implementation of the comprehensive institutional response Improved and formalised internal collaborative structures for managing the institutional HIV/Aids plan Visual branding of the institutional HIV/Aids-related response to communicate the commitment and	Granting of mandate to the OIHC to coordinate/manage the institutional HIV/Aids-related strategy Approval of HICC's terms of reference document Taking of minutes at collaborative HIV/Aids-related meetings Ongoing media coverage of institutional		

	involvement of the current leadership	HIV/Aids-related response and leadership		
Activities	<p>Definition and institutionalisation of the reporting and management responsibilities of the HICC and the OIHC</p> <p>Allocation of sufficient funding for the coordination of the institutional HIV/Aids-related response</p> <p>Representative participation in the HICC and coordinating forums to sustain the active involvement of student and staff leaders</p> <p>Holding of bimonthly collaborative meetings to ensure optimal coordination of HIV/Aids-related services between Campus Health, the Centre for Student Counselling and Development (CSCD) and the Wellness Programme</p> <p>Implementation of the institutional HIV/Aids-related media and marketing plan</p> <p>Public commemoration of scheduled HIV/Aids days, with strong leadership representation</p>	<p>Establishment of the organogram detailing the required structures and responsibilities for leadership, management and coordination</p> <p>Submission of annual report(s) on policy implementation to Institutional Management</p> <p>Approval of HICC's terms of reference document</p> <p>Approval of institutional HIV/Aids policy plans, including budget allocation</p> <p>Increase of cooperation and communication between Campus Health, the CSCD, the Wellness Programme and the OIHC</p> <p>Documentation of the HIV/Aids-related media plan</p> <p>Management representation at World Aids Day and Grow Up and Get Tested events</p>		

	Intervention logic	Verifiable indicators of achievement	Responsible structure/committee/unit	Available b
Overall objective	To provide strong, committed external leadership to contribute to the national and international response to HIV/Aids			
Specific objectives	To ensure strategic external leadership by means of participating and sharing in national and international HIV/Aids-related initiatives	Monitoring of participation in national and international forums by submission of reports to the HICC		
Expected results	Representation by SU experts on national and international HIV/Aids-related forums Increased partnerships with international and national role players	Ongoing representation of SU on national and international HIV/Aids-related forums Conducting of correspondence and meetings to explore new partnerships		
Activities	Popularisation of institutional HIV/Aids-related brand identity on national and international forums Active participation on forums, such as those of Africomnet, HEAIDS and ACTIW Identification of new opportunities to establish national and international partnerships Enablement of the OIHC to represent SU on national and international forums	Encouragement of SU representatives to use institutional HIV/Aids-related brand identity on international forums Ongoing representation of SU at forum meetings Conducting of correspondence and meetings to explore new partnerships Allocation of sufficient funding to enable conference and forum attendance		

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6.2 Curriculum integration and training

	Intervention logic	Verifiable indicators of achievement	Responsible structure/committee/unit	Available resources /budget
Overall objective	Empower the student body with the relevant personal and professional skills for mitigating the impact of HIV/Aids on their present and future communities			
Specific objectives	<p>To contribute to the establishment of a comprehensive learning approach regarding behaviour modification and HIV/Aids-related knowledge competencies through curriculum integration</p> <p>To expand the reach of HIV/Aids-related knowledge by means of teaching/training initiatives with national and African universities</p>	<p>Integration of curriculum strategy in institutional HIV/Aids policy</p> <p>Increase in national and international collaborative initiatives regarding HIV/Aids-related teaching and training</p> <p>Formalisation of HIV/Aids-related curriculum development portfolio at the OIHC</p>		
Expected results	<p>Linking of HIV/Aids-related knowledge to personal risks as part of a comprehensive learning approach</p> <p>Addressing of HIV/Aids-related competencies and applicability to prospective careers and fields of study through targeted curricular activities.</p> <p>Capacitation of academic staff to integrate HIV/Aids-related studies in curricula</p> <p>Participation of national and international participants in specialised HIV/Aids-related short courses at SU</p>	<p>Addressing of personal risks in various training initiatives</p> <p>Creation of updatable database for academics to identify HIV/Aids-related competencies addressed in curricula</p> <p>Compilation of feedback reports by participants, indicating benefits derived from focused HIV/Aids-related courses</p>		
Activities	Development of HIV/Aids-related curriculum	Submission of curriculum planning		

<p>integration plan, including co-curricular activities</p> <p>Utilisation and expansion of e-learning to improve HIV baseline knowledge</p> <p>Development and maintenance of database on curriculum integration in faculties and communication of data findings to faculties</p> <p>Gradual increase and maintenance of institution-wide curriculum integration</p> <p>Exploration of HIV/Aids-related curriculum development capacity-building initiatives</p> <p>Presentation and development of specialised courses on HIV/Aids in collaboration with African and South African partners</p>	<p>document to the HICC</p> <p>Increase in uptake of e-learning course</p> <p>Maintenance of accessible HIV/Aids-related curriculum database</p> <p>Reporting of increased curriculum integration</p> <p>Receipt of positive feedback from staff who have attended capacity-building initiatives</p> <p>Increased uptake of collaborative HIV/Aids-related training by African and South African partners</p>		
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6.3 HIV- and Aids-related research

	Intervention logic	Verifiable indicators achievement	Responsible structure/committee/unit	Available resour /budget
Overall objective	Make a positive contribution to the production and dissemination of quality research relating to HIV/Aids			
Specific objective	To contribute to an institutional environment in which researchers increase the quantity, quality and relevance of HIV/Aids-related research by means of external and internal collaboration, networking and partnerships	Use of SU's HIV/Aids-related research findings to plan national HIV/Aids-directed response		
Expected results	Establishment of HIV/Aids-related research as a core	Formal prioritisation of HIV/Aids-related		

	<p>priority area at SU</p> <p>Increased collaboration through research forums and the HIV/Aids-related research database</p> <p>Increased communication to encourage relevant and practice-based HIV/Aids-related research</p> <p>Capacitation of young/upcoming researchers to actively participate in HIV/Aids-related research.</p>	<p>studies formally declared as core research priority by Division of Research Development (DRD)</p> <p>Granting of access to HIV/Aids-directed research database to all SU staff</p> <p>Provision of examples of DRD's communication to all researchers</p> <p>Establishment of networking forum for academics and researchers</p> <p>Hosting of annual meetings</p> <p>Provision of capacity-building opportunities for young and upcoming researchers</p> <p>Provision of opportunities for feedback from participants</p>		
Activities	<p>Sustenance and promotion of the use of a central research database</p> <p>Monitoring and promotion of</p>	<p>Compilation of annual database summary report by the DRD</p> <p>Provision of feedback</p>		

	<p>HIV/Aids-related research participation on national and international forums</p> <p>Creation of communication opportunities between researchers and external role-players (such as government, funders and non-governmental organisations)</p> <p>Provision of opportunities for postgraduate students to develop as future HIV/Aids researchers</p>	<p>from SU participants at conferences / on forums</p> <p>Hosting of meetings to increase communication between researchers and external role players</p> <p>Planning/Listing of opportunities available for postgraduate students / upcoming researchers by the DRD</p>		
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6.4 Ethics and human rights

	Intervention logic	Verifiable indicator achievement	Responsible structure/committee/unit	Available resource /budget
Overall objective	Help to protect human rights and ensure human justice for all those based at SU through the formulation and implementation of HIV/Aids-related policies and practices			
Specific objective	To establish and enforce non-discriminatory practices with respect to HIV/Aids at SU	Implementation of policies that protect the rights of students and staff		
Expected results	Addressing of HIV/Aids-related issues through SU policies	Recording and making available		

	<p>Popularisation and implementation of non-discriminatory policies</p> <p>Coverage of human rights aspects in basic HIV/Aids-related training offered at SU</p>	<p>of complaints, grievances and feedback on SU policies by the HICC</p> <p>Awareness-raising of staff about HIV/Aids policy and non-discrimination clauses</p> <p>Inclusion of materials on non-discrimination in training programmes</p>		
Activities	<p>Approval of revised HIV/Aids policy</p> <p>Development of communication strategy to popularise HIV/Aids policy</p> <p>Marketing of HIV/Aids policy available on SU website</p> <p>Marketing of HIV/Aids e-learning course for staff</p> <p>Capacitation of the Division of Human Resources and the Centre for Students Affairs to effectively deal with grievances relating to the HIV/Aids policy</p>	<p>Provision of official approval documents</p> <p>Coverage in media and marketing releases</p> <p>Creation of visible links to HIV/Aids policy</p> <p>Presentation of capacity-building workshop for teams from the Division of Human Resources and the Centre for</p>		

		Students Affairs		
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6.5 Prevention and wellness

	Intervention logic	Verifiable indicators of achievement	Responsible structure/committee/unit	Available resources /budget
Overall objectives	Contribute to holistic HIV prevention, by reducing the levels of stigma attached to HIV/Aids as well as the rate of HIV transmission			
Specific objectives	<p>To promote responsible sexual behaviour among students and staff</p> <p>To provide access to a comprehensive service-delivery system for HIV/Aids-related prevention of transmission, care and support</p> <p>To promote acceptance of shared and personal responsibility for the prevention and management of HIV/Aids among students</p>	<p>Implementation of service delivery and referral organogram for students and staff</p> <p>Clear communication of shared vision in media articles, training materials and other printed communiqués</p>		
Expected results	<p>Increased participation in HIV/Aids-related prevention of transmission, education and treatment services</p> <p>Improved services for PLWHAs</p> <p>Expansion and sustaining of activities aimed at prevention of HIV transmission by means of community interaction</p> <p>Reduction of stigma associated with services related to reproductive health and sexuality</p>	<p>Provision of data on student and staff participation in workplace programme</p> <p>Compilation of prevention project reports</p> <p>Provision of feedback documentation or of opportunities for discussion by service providers (e.g. Campus Health, the CSCD and the OIHC)</p>		

		<p>Compilation of feedback reports on community interaction</p> <p>Compilation of monthly statistics indicating student and staff uptake of sexual health services</p>		
Activities	<p>Provision of comprehensive support services to students and staff by means of a combination of in-house and referral systems</p> <p>Development of an effective HIV/Aids and wellness workplace programme for SU employees</p> <p>Marketing of the service-delivery system</p> <p>Training and support of peer educators and mentors to educate and refer students on sexual health matters</p> <p>Training and support of wellness mentors to educate and refer staff on sexual health matters</p> <p>Targeting of communication campaigns on prevention of HIV transmission, e.g. HIV testing, mass media, residence-based projects</p> <p>Maintenance of sustainable condom-distribution systems</p> <p>Partnering with community-based organisations to implement initiatives for the prevention of HIV transmission</p>	<p>Provision of internet-based and media communiqués to students and staff regarding support services and referral system</p> <p>Documentation of HIV/Aids-related workplace programme and reports</p> <p>Provision of internet-based links to, and marketing of, referral systems</p> <p>Compilation of peer education training reports</p> <p>Compilation of staff training reports</p> <p>Provision of material on prevention of HIV transmission in the form of printed media and web-based communiqués and campaign reports</p> <p>Compilation of data obtained from Campus Health reflecting distribution reach per month</p> <p>Compilation of community-based project reports</p>		

Appendix 3

PROTOCOL FOR INFECTION CONTROL WITH REGARD TO WORK- AND ACADEMIC-RELATED EXPOSURE TO BLOOD-BORNE DISEASES

STELLENBOSCH UNIVERSITY PROTOCOL: Stellenbosch campus

Although the risk of HIV infection after work-related exposure is very low (0.3%), everything possible should be done to protect students and staff against possible infection. The risk for HIV infection is higher when the exposure includes large quantities of blood, or if the source individual is HIV positive and has a high viral load.

The following body fluids could potentially contain the virus and are relevant to the implementation of this protocol:

- Blood
- Semen
- Vaginal secretions
- Any body fluids in which there is visible blood or any of the abovementioned fluids

All environment heads within the University must ensure that their staff are informed in full about infection risks and preventative measures. These measures include the following:

- 1) The provision and use of protective equipment (such as gloves) when body fluids are handled
- 2) The covering of sores, cuts and wounds
- 3) The disinfection of equipment that has been in contact with body fluids.

If any student or member of staff is exposed to the abovementioned body fluids by way of a needle or a sharp object

or

if infected blood or body fluids came into contact with the mouth, eye, open wounds or cuts, the following preventative measures need to be taken:

1. Immediately wash off the blood and splashes of body fluids from the skin, eye and mouth with water or, preferably, with an antimicrobial agent.
2. In the case of penetrative injuries, allow the wound to bleed freely and wash the area thoroughly with an antimicrobial agent, or with soap and water if the alternative is not available.
3. **Students:** Report all incidents to the doctor on duty at Campus Health Services (tel.no. 808 3496).
4. **Staff:** Report all incidents to Ms E September (tel.no. 808 4552) and to the doctor on duty at Campus Health Services (tel.no. 808 3694). Staff may also make use of a private doctor of their choice.
5. The following circumstances relating to the exposure should be documented: the nature of the activity in which the student or staff member was involved at the time of exposure, a detailed description of the injured area, the extent to which appropriate work practices were followed and protective equipment was used, and a description of the source of exposure.

6. A blood sample should be taken from the exposed person after exposure. A blood sample may only be taken from the source patient and tested if the circumstances permit such a request. *At present, the legal requirement is that the source individual must give his/ her informed consent for an HIV test.* An evaluation of the necessity for medication should be done by the medical practitioner based on the risk (with due observance of the window period).
7. Both the exposed person and the source individual should undergo complete pre- and post-test counselling together with the testing, and the person who has been exposed should be informed in full about the possible side-effects and the effect of the medication. The following people can be contacted to do this counselling/briefing:
OIHC: Tel.no. 808 3136
Students: Psychologist on duty at the CSCD: Tel.no. 808 4994 or the 24-hour crisis service: Tel.no. 082 557 0880.
Staff: Maureen Kennedy (Wellness Coordinator, Human Resources)
8. If the nature of the exposure has been evaluated and there is a risk of transmission, the following emergency medication should be made available immediately (preferably within the first two hours after exposure and after a maximum permissible period of 72 hours).
9. The following medication is indicated for emergency treatment:
Combivir 1t bd (each tablet contains 150 mg lamivudine and 300 mg zidovudine).
Additional indinavir (crivivan) 800 mg every 12 hours is only indicated when the source might have a potentially resistant virus or when the nature of the exposure holds a particularly high risk.
10. Regardless of whether or not the source individual has been tested sero-negative, the exposed person must be given the option to be tested at 6 weeks, 12 weeks and 6 months to address the possibility of the window period in the source individual.
11. If emergency medication is given, the follow-up test dates and the monitoring of possible side-effects should be discussed with the doctor in charge.
The necessity for tests for exposure to other contagious diseases should be evaluated by the medical practitioner.
12. During all the phases of testing, counselling and treatment, **the confidentiality** of the information relating to the incident, the exposed person and the source individual should be protected at all times.

Campus Health Services of Stellenbosch University will provide the initial emergency treatment (three days of antiretroviral treatment), counselling and testing free of charge to students and staff. If more extensive testing or a longer treatment regime is indicated, the individual will be responsible for the associated costs.

Appendix 4

GUIDELINES FOR DEALING WITH THE RAPE OR SEXUAL ASSAULT OF STUDENTS AND STAFF OF STELLENBOSCH UNIVERSITY

1. In the case of serious physical injuries, the person should get to a hospital or medical facility as soon as possible.
2. The person is requested not to bath, shower or wash or to put on clean clothes. (It is also important to keep any clothing/objects that could possibly serve as evidence.)

Students: Phone the 24-hour crisis service to request that the counsellor on duty help with reporting the incident and provide further support.

CRISIS SERVICE (only registered students)

The emergency number is: 082 557 0880 (all campuses)

1. **Staff:** Phone the nearest police station to report the rape.

STELLENBOSCH POLICE, Tel.no. 809 5000

A victim volunteer is on duty at this number on a 24-hour basis and has received training to assist you. Individuals aged 18 years and older may choose whether or not to institute legal proceedings.

Rape Crisis can also be contacted directly at 083 484 9409

2. If a decision is taken to institute legal proceedings, a statement must be made at the police. The police will then take the person to the district surgeon or to the attending doctor for a medical examination.
3. If it is decided not to institute legal proceedings, any medical service may be consulted to provide a service at medical aid rates.
4. It is important that the investigation is carried out as soon as possible, since certain treatments are no longer effective after 72 hours. Treatment against HIV is optimal if it is given as soon as possible after the incident. Treatment should include emergency contraception, preventative antiretroviral medication and antibiotics.
5. The aim of the statement and the medical examination is to collect evidence for the court should the offender be arrested.
6. It is important that the person receives further medical assistance after the rape (including further testing for HIV after 42 days and possible follow-up treatment).

Follow-up HIV tests can be done free of charge at Campus Health Services (Tel.no. 808 3496).

7. Furthermore it is important for the person to receive psychological counselling. The following organisations can be contacted for help and further support.

OIHC: Tel.no. 808 3136

Registered students: CSCD: Tel.no. 808 4994 or Crisis Service: Tel.no. 082 557 0880

Staff: Maureen Kennedy (Human Resources Wellness Programme): Tel.no. 808 4824

Rape Crisis: Tel.no. 083 484 9409

Life Line: Tel.no. 0800 05 55 55 / 021 461 1111

**DISCIPLINARY CODE:
PROCEDURE REGARDING DISCIPLINARY ACTION
AGAINST STAFF**



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DISCIPLINARY CODE

PROCEDURE REGARDING DISCIPLINARY ACTION AGAINST STAFF

In order to protect the interests of its staff and those of the institution, the University strives at all times to act ethically, transparently, equitably and within the rules of the labour law and the Basic Conditions of Employment Act. The University regards its disciplinary procedures as an action to correct rather than to punish conduct.

1. DEFINITIONS

In this procedure, unless the context indicates otherwise

“allowance” means

any monetary payments to a staff member in addition to her or his salary and intended as a supplement to her or his total salary;

“appeal committee” means

an ad hoc committee of at least three (3) members constituted by the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer on instruction by the chairperson of the Council;

“CCMA” means

the Commission for Conciliation, Mediation and Arbitration;

“Council” means

the Council of Stellenbosch University (SU);

“disciplinary committee” means

a disciplinary committee of at least three (3) members constituted by the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer;

“provisional suspension with payment” means

the suspension, with a view to a later hearing, of the right and obligation of a staff member to fulfil her or his obligations of employment, where the presence of the staff member in her or his post may be detrimental to any investigation or her or his work relationships, provided that the University remains obliged to pay the staff member’s salary and/or any allowance for the period of provisional suspension;

“provisional suspension without payment” means

the suspension, with a view to a later hearing, of the right and obligation of a staff member to fulfil her or his obligations of employment, accompanied by the suspension of the University’s obligation to pay the staff member her or his salary or any allowance for the period of the provisional suspension;

“Rector and Vice-Chancellor” mean

the Rector and Vice-Chancellor of SU; and

“staff member” means

any member of the academic or support-service staff appointed in terms of the relevant conditions of employment on a permanent, contract, temporary full-time or temporary part-time basis.

2. MISCONDUCT

The following examples of misconduct serve purely as guidelines and not as a comprehensive list.

A staff member in the employ of the University may be found guilty of, *inter alia*, misconduct if she or he:

- 2.1 intentionally or through negligence contravenes any procedure, regulation or rule of the University or attempts to do so;
- 2.2 intentionally refuses or through negligence fails to execute a lawful instruction by an authorised person on behalf of the University or acts contrary to such instruction;
- 2.3 steals, illegally appropriates for her or himself, illegally or improperly uses or illegally destroys, damages or deals with or uses property of the University in such a manner that it may be or is detrimental to the University;

- 2.4 while proceeding to or on the premises of the University or otherwise employed
 - 2.4.1 abuses or is under the influence of alcohol to the extent that it is or may be detrimental to her or his work performance or relationships; or
 - 2.4.2 uses drugs without a medical prescription or is under the influence of such drugs to the extent that it is or may be detrimental to her or his work performance or relationships;
- 2.5 abuses her or his official position or duties with a view to obtaining a privilege or advantage;
- 2.6 makes her or himself guilty of sexual harassment or abuses, for sexual purposes, a relationship of dependency with students and/or staff members;
- 2.7 makes any false or untrue statement that may be detrimental to or prejudice the University, knowing that such statement is false or untrue;
- 2.8 persistently neglects to execute her or his duties;
- 2.9 without the permission of an authorised person, furnishes, on behalf of the University, any person with confidential information on the activities of the University;
- 2.10 intentionally makes her or himself unfit to execute her or his duties or incapable of doing so;
- 2.11 makes her or himself guilty of conduct that results in or may, as a reasonable probability, result in any of the following consequences where such consequences were anticipated or could have been anticipated as a reasonable probability at the time that she or he made her or himself guilty of such conduct:
 - 2.11.1 where the good name of the University is brought into disrepute;
 - 2.11.2 where the maintenance of order, discipline or safety at the University is prejudiced or endangered; or

2.11.3 where the normal course of teaching, research, administration or general functions at the University is prejudiced or endangered; or

2.12 without the necessary permission, performs outside work or exceeds the bounds of such permission; or

2.13 acts otherwise or neglects to act in such a way as could reasonably be expected of her or him in accordance with her or his conditions of employment.

3. **MISCONDUCT OR TRANSGRESSIONS: PROCEDURE FOR LESS SERIOUS MISCONDUCT OR TRANSGRESSIONS**

3.1 A staff member making her or himself guilty of less serious misconduct or transgressions may be reprimanded by her or his immediate manager in the form of a verbal warning. In cases where a written warning may be appropriate, a staff member may be disciplined by a disciplinary committee. The disciplinary actions or sanctions that may be recommended by the committee may vary from a verbal warning to a final written warning.

3.2 The appointment of such disciplinary committee is ratified by the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer. The disciplinary committee is composed as follows:

3.2.1 The senior manager of the environment or department where the accused staff member is employed, who acts as chairperson of the committee;

3.2.2 At least two (2) members from another environment or other environments; en

3.2.3 A pro forma prosecutor, who may be the direct line head of the staff member or the investigative officer of the University.

3.2.4 If the senior manager is her or himself involved in the case that may lead to disciplinary action, the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer appoints another chairperson.

- 3.3 When a disciplinary hearing is held, the pro forma prosecutor, at least five (5) working days before the date of the hearing, hands the accused staff member written notification of the specified date, time and place that she or he is to appear before the disciplinary committee and of:
- 3.3.1 the complaint against her or him and sufficient particulars of her or his alleged misconduct;
- 3.3.2 her or his right to -
- 3.3.2.1 attend the hearing when evidence is given and arguments are made;
- 3.3.2.2 respond to the complaint in writing two (2) working days before the hearing;
- 3.3.2.3 be assisted by a staff member of the University or by a representative of a trade union with which the University has an agreement (or of a registered trade union) during the hearing;
- 3.3.2.4 appeal against a possible conviction in terms of subparagraph 3.8; and
- 3.3.3 a warning that, if she or he fails to attend the hearing without good reason, she or he may be heard *in absentia* and that the proceedings will not be invalid as a result of her or his absence.
- 3.4 If an accused staff member is absent or suspended, such notification is delivered to her or his residential address as stated in the University records.
- 3.5 Subject to the rules of these regulations, the chairperson of the disciplinary committee, composed by the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer, determines the procedure to be followed at a hearing. Such hearing must be procedurally fair and satisfy the principles of natural justice. This entails, in particular, the accused staff member having the right to testify her or himself, to call witnesses or have them called and to question them or have them questioned, to question the witness or witnesses testifying against her or him or to have her, him or them questioned, to cross-question her or his own witnesses or to

have them cross-questioned after all evidence has been given, to argue her or his case her or himself or to have it argued, to submit evidence in mitigation or to have it submitted and to address the disciplinary committee or to have it addressed on the recommended measures.

- 3.6 The pro forma prosecutor may call and question witnesses, may question the person or persons testifying against the accused staff member, may question the accused staff member if she or he gave evidence and any other person or persons testifying on behalf of the accused staff member, may cross-question her or his own witnesses and may argue the case after all the witnesses have testified but before the accused staff member or person assisting her or him is given the opportunity to argue her or his case.
- 3.7 In the case of a tie of votes (if the disciplinary committee cannot reach a unanimous decision), the decision of the majority of the disciplinary-committee members holds. The chairperson has a casting vote.
- 3.8 The disciplinary actions or sanctions are communicated to the Employee Relations Division and signed by the Chief Director: Strategic Initiatives and Human Resources, conveyed to the staff member concerned. A copy of the actions or sanctions and their communication is placed on the staff member's personal record.
- 3.9 A staff member found guilty of misconduct has the right to appeal against the findings in accordance with the prescribed procedure of appeal.

4. **MISCONDUCT OR TRANSGRESSIONS: PROCEDURE FOR SERIOUS MISCONDUCT OR TRANSGRESSIONS**

- 4.1 A staff member may not be accused of serious misconduct before a written statement, signed by the accuser, with allegations against the staff member, is submitted to the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer.
- 4.2 The Vice-Rector (Community Interaction and Personnel) or her or his delegated officer may, at the earliest possible opportunity, appoint a committee, composed of

one or more staff members and/or an expert or experts from outside the University, to institute a provisional investigation into any allegations submitted to her or him or any conduct by a staff member that may amount to serious misconduct, with the instruction to report to her or him in writing. The provisional investigative committee may consult with or obtain information from any person, including the person against whom the complaint is or allegations are being made.

- 4.3 If the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer deems there to be reasonable grounds for a complaint of serious misconduct against a staff member, she or he may constitute a disciplinary committee and task it to conduct a hearing.
- 4.4 If the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer deems the alleged serious misconduct of a staff member to be such that it does not justify a hearing by a disciplinary committee but that it is nevertheless serious enough to justify the staff member being reprimanded, she or he, after hearing any representation by the staff member in her or his defence, may reprimand the staff member or refer this task to the line head if she or he is convinced that the misconduct is of a less serious nature.
- 4.5 If a decision is made to continue with a disciplinary hearing, the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer appoints a legal practitioner as a pro forma prosecutor from outside the University to take the case further.
- 4.6 If the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer deems the complaint against a staff member to be so serious that it may lead to dismissal, she or he may appoint a disciplinary committee comprising legal practitioners and other experts from outside the University to hear the case and make recommendations regarding disciplinary actions or sanctions against the staff member. The Vice-Rector (Community Interaction and Personnel) or her or his delegated officer then appoints a chairperson from among the members of the committee. The final decision on the actions or sanctions of the disciplinary committee rests with the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer. The actions or sanctions recommended by the disciplinary

committee become the official decision of the University only after being ratified by the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer. The Vice-Rector (Community Interaction and Personnel) or her or his delegated officer may also deem there to be deficiencies in the actions or sanctions and refer these back for further consideration.

- 4.7 When a disciplinary hearing is held, the pro forma prosecutor, at least five (5) working days before the date of the hearing, hands the accused staff member or, if the accused staff member is absent or suspended, delivers to her or his residential address as stated in the University records, written notification of the specified date, time and place that she or he is to appear before the disciplinary committee and of
- 4.7.1 the complaint against her or him and sufficient particulars of her or his alleged misconduct, along with copies of all relevant documentary evidence;
- 4.7.2 her or his right to:
- 4.7.2.1 attend the hearing when evidence is given and arguments are made;
- 4.7.2.2 respond to the complaint in writing two (2) working days before the hearing;
- 4.7.2.3 be assisted by a staff member of the University or, with due notification to the disciplinary committee by a representative of a trade union or by a law practitioner in private practice at her or his own cost during the hearing; and
- 4.7.2.4 appeal against a possible conviction in terms of paragraph 7; and
- 4.7.3 a warning that, if she or he fails to attend the hearing without good reason, she or he may be heard *in absentia* and that the proceedings will not be invalid as a result of her or his absence.
- 4.8 Subject to the rules of these regulations, the chairperson of the disciplinary committee, composed by the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer, determines the procedure to be followed at a hearing. Such hearing must be procedurally fair and satisfy the principles of natural justice (see subparagraph 3.5).

- 4.9 The pro forma prosecutor may call and question witnesses, may question the person or persons testifying against the accused staff member, may question the accused staff member if she or he gave evidence and any other person or persons testifying on behalf of the accused staff member, may cross-question her or his own witnesses and may argue the case after all the witnesses have testified but before the accused staff member or person assisting her or him is given the opportunity to argue her or his case.
- 4.10 The Human Resources Division appoints a person to record the proceedings at the hearing and all the evidence given at the hearing with a digital recorder. Such person may not be a member of the disciplinary committee.
- 4.11 In the case of a tie of votes (if the disciplinary committee cannot reach a unanimous decision), the decision of the majority of the disciplinary-committee members holds. The chairperson has a casting vote.

5. PROCESS AND PROVISIONS REGARDING THE SUSPENSION OF A STAFF MEMBER

Before a staff member is officially notified of the intention to suspend her or him, a discussion is held with the staff member to notify her or him of such intention and she or he is given the opportunity to respond to the notification and furnish grounds why the intended suspension should not be effected. After such discussion, a decision on the suspension is taken.

- 5.1 The Vice-Rector (Community Interaction and Personnel) or her or his delegated officer may provisionally suspend a staff member against whom a complaint of misconduct is brought on full payment for a maximum of ninety (90) days, provided that the Vice-Rector (Community Interaction and Personnel) has such complaint investigated at the earliest possible opportunity, provided further that the suspended staff member may submit written representations to the Vice-Rector (Community Interaction and Personnel) within three (3) working days of being notified in writing of her or his provisional suspension, furnishing reasons why she or he should not be suspended.
- 5.2 The Vice-Rector (Community Interaction and Personnel) may, on completion of a provisional investigation and in terms of subparagraph 4.2, suspend without

payment a staff member against whom a serious criminal charge has been brought or who has been arrested on such criminal charge and where the University may be seriously disadvantaged financially, provided that the Vice-Rector (Community Interaction and Personnel), on completion of the criminal proceedings in terms of paragraph 4, has the case heard at the earliest possible opportunity. The suspended staff member may submit written representations to the Vice-Rector (Community Interaction and Personnel) within three (3) working days of being notified in writing of her or his provisional suspension, furnishing reasons why she or he should not be suspended.

5.3 The Vice-Rector (Community Interaction and Personnel) may retrospectively rescind the provisional suspension of a staff member at any time. Notwithstanding such rescission of provisional suspension, steps regarding a complaint of misconduct may be continued.

5.4 If a staff member is charged and pleads guilty to the charge, the disciplinary committee indicates whether or not any evidence regarding the charge is required.

5.5 If an accused staff member is found not guilty of the misconduct of which she or he is accused, she or he is notified of such and, if provisionally suspended, is reinstated in her or his employment from the time of notification of such findings and the salary withheld from her or him is paid retrospectively.

6. **DISCIPLINARY SANCTIONS AND ACCOMPANYING PROCESSES**

6.1 If a staff member is found guilty of misconduct, the disciplinary committee makes a recommendation to the Vice-Rector (Community Interaction and Personnel) on one or more of the following sanctions to be applied:

6.1.1 A written warning, entered on the personal record of the staff member, is issued to her or him. The committee recommends the period that the warning remains valid.

6.1.2 Any increase in the salary of the staff member is withheld on a one-off basis or her or his claim to leave in any category (except sick leave, maternity leave and accumulated leave) is temporarily or partially withheld from her or him.

- 6.1.3 She or he is suspended from her or his employment for a maximum of ninety (90) days without payment.
- 6.1.4 She or he is transferred to another post or her or his rank or salary may be reduced.
- 6.1.5 She or he, within legal limits, recompenses the University for damage or prejudice caused by her or his misconduct.
- 6.1.6 She or he is dismissed on terms deemed fair by the disciplinary committee (with communication of the dismissed staff member's right to appeal and, should the appeal be unsuccessful, to institute a dispute with the Commission for Conciliation, Mediation and Arbitration).
- 6.2 On consideration of the recommendations on the measures deemed by the disciplinary committee to be fair and appropriate to the circumstances regarding the misconduct of which the staff member has been found guilty, the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer may, after due account of the reasons provided by the disciplinary committee, confirm or amend the recommendations or, without prejudice to any rights, appoint another committee.
- 6.3 The findings of the disciplinary committee are, subject to the right of appeal provided for in paragraph 7, final and the measures imposed by the committee need not be ratified by the Council.
- 6.4 The disciplinary committee may suspend the implementation of any measures decided on for a specific period, subject to any condition or conditions that it may deem reasonable.

7. **APPEAL**

- 7.1 A staff member found guilty of misconduct may, within fourteen (14) working days of the date on which the written decision by the disciplinary committee was made known to her or him or, in her or his absence, was delivered to her or his residential

address as stated in the University records, appeal against the finding in writing by submitting the detailed grounds on which the appeal is based to the Vice-Rector (Community Interaction and Personnel). This provision excludes all hearings held under the chairpersonship of a commissioner appointed in terms of section 188A of the Labour Relations Act 66 of 1995.

- 7.2 A staff member using her or his right to appeal must clearly set out, in writing, the grounds on which she or he bases her or his appeal. Such grounds may include one or more of the following:
 - 7.2.1 Issues relating to a lack of jurisdiction
 - 7.2.2 Procedural irregularities
 - 7.2.3 Legal problems
 - 7.2.4 Facts regarding the findings of the disciplinary committee
 - 7.2.5 Defects in the outcome handed down
 - 7.2.6 The lack of impartiality of the disciplinary committee
- 7.3 In the handling of an appeal in terms of this paragraph, a staff member is not entitled to any cost or assistance by a person of her or his choice, including a legal practitioner in private practice, except under the circumstances set out in subparagraph 7.6.
- 7.4 When, in terms of subparagraph 7.1, an appeal is brought against the findings of the disciplinary committee, the disciplinary measures imposed by the disciplinary committee in terms of subparagraph 6.1 remain in force until after the outcome of the appeal hearing. If the appeal is upheld in its entirety, the staff member is reinstated in her or his employment, with all the concomitant rights and privileges, backdated to the date on which the disciplinary process was imposed on her or him in terms of subparagraph 6.1.
- 7.5 On receipt of the notification of appeal, a copy of the notification is furnished to the chairperson of the disciplinary committee, the grounds of the appeal to which the

disciplinary committee, with the assistance of the pro forma prosecutor, responds and which it submits to the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer within a reasonable period. Arrangements are then made for the hearing of the appeal by the appeal committee, which hearing begins within fourteen (14) working days of receipt of the notification of appeal.

- 7.6 An appeal is heard exclusively on the basis of the records of an investigation, together with any documents submitted to the appeal committee in the course of the investigation, except in cases where the appeal committee, with due account of the grounds of appeal, grants leave for the submission of verbal evidence or where the appeal is based on an allegation of fundamental irregularities that occurred during the proceedings but that were not evident as such from the records. In the latter case, the staff member may, with due notification to the appeal committee, be represented by a person of her or his choice.
- 7.7 On consideration of the appeal, the appeal committee may, except under the circumstances set out in subparagraph 7.8, uphold the appeal in its entirety or in part and set aside or amend the decisions of the disciplinary committee, it may reject the appeal and ratify the decisions in their entirety or in part, it may refer any questions on the hearing back to the same disciplinary committee and direct that this be reported on or it may constitute another investigative committee with the directive that it conduct further investigations and make a decision on the representations.
- 7.8 If the appeal committee finds that fundamental irregularities occurred during the proceedings of the disciplinary committee, the appeal committee sets aside the findings of the disciplinary committee and refers the case back to the Vice-Rector (Community Interaction and Personnel) or her or his delegated officer for the appointment of a new disciplinary committee comprising members other than those comprising the original disciplinary committee, which then hears the case anew.
- 7.9 The decision of the appeal committee is final and the measures imposed by the committee need not be ratified by the Council.

8. PERIODS

The periods referred to in these rules, except the periods of ninety (90) days referred to in subparagraph 6.1.3, may be extended by the Vice-Rector (Community Interaction and Personnel), such committee, the Council or the disciplinary committee if the party concerned is of the opinion that good reasons exist for such extension.

9. SAFE KEEPING OF THE RECORDS

9.1 All documents and digital recordings relating to a disciplinary case are kept by the Human Resources Division of the University. The staff member concerned may obtain copies of the documents and recordings at her or his own cost.

9.2 Such documents and recordings are kept for a period of at least five (5) years after the announcement of the decision by the disciplinary committee, for a period of at least five (5) years after the final decision by the appeal committee in the case of an appeal brought by the staff member against the decision by the disciplinary committee or for a period of at least five (5) years after the Minister has rejected an appeal by the staff member in terms of section 13 of the Universities Act 61 of 1955.

10. FUNCTION OF THE HUMAN RESOURCES DIVISION

10.1 A staff member of the Human Resources Division should preferably be present at all hearings where a staff member is accused of serious misconduct but the absence of a staff member of the Human Resources Division will not prejudice the hearings.

10.2 The primary function of the staff member of the Human Resources Division is to:

10.2.1 advise the disciplinary committee and the accused, where necessary, on the implementation and interpretation of University policy and procedures; and

10.2.2 inform the disciplinary committee of relevant precedents of the CCMA, Labour Court, Labour Appeal Court and University.

10.3 The staff member of the Human Resources Division may ask relevant questions for the sake of clarity on substantive points raised.