

The Open University of Sri Lanka
Office of the Deputy Registrar

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Academic Administration

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09th January 2023

Dir/CGEE,

DECISIONS OF THE 494TH COUNCIL ON 25TH DECEMBER 2022

I am sending herewith a copy of the extract of the minutes (Unconfirmed) of the 494th Council held on 25th December 2022 regarding the memo/s submitted by your Faculty/Division/Unit. The details of the Memo/s are in the attached document.

Please bring the content of the extracts to the notice of the relevant Departments/Divisions/Units and also take necessary actions accordingly, as applicable.


Deputy Registrar
Academic Administration

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இலங்கை திறந்த பல்கலைக்கழகம்
THE OPEN UNIVERSITY OF SRI LANKA

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REGISTRAR'S OFFICE

பதிவாளர் அலுவலகம்

04.01.2023

Dy. Registrar(Ac)

494th Meeting of the Council held on 23.12.2022 (Un-confirmed Decisions)

The following memo which has been approved by the Council of the Open University of Sri Lanka at its 494th Meeting held on 23.12.2022 is appended.

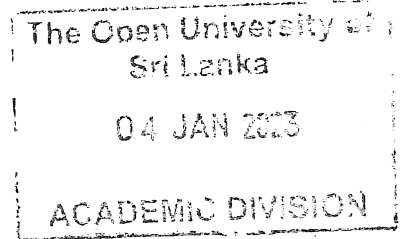
494.29(xiv) Recommendation of the Senate

Memo No: VV/494/29(xiv): Having considered the memo, the Council decided to approve the following recommendations of the Senate:

410 th Senate Meeting held on 15.11.2022	Centre for Gender Equity and Equality (CGEE) Code for the Prevention and Redress of Sexual Harassment - OUSL [Memo No. VV/410/04/17(ii)]
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I shall thank you to take necessary action accordingly.

W L Vindya Jayasena
Registrar



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RECOMMENDATION OF THE SENATE

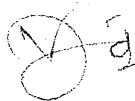
The Senate at its 410th Meeting held on 15th November 2022 considered the under mentioned item and recommended to the Council for approval.

CENTRE FOR GENDER EQUITY AND EQUALITY (CGEE)

Code for the Prevention and Redress of Sexual Harassment – OUSL
[Memo No. VV/410/04/17(ii)]

Recommended to the Council for approval.


PK Seneviratne/Deputy Registrar
Academic Administration
20th December 2022


WLV Jayasena
Registrar

Open University of Sri Lanka

Code for the Prevention and Redress of Sexual Harassment

1. PREAMBLE

The Open University of Sri Lanka (OUSL) notes that sexual harassment is a criminal offence under Section 345 of the Penal Code and Section 2(2) of the Prohibition of Ragging and Other Forms of Violence in Educational Institutions Act No. 20 of 1998. The offences under both laws are punishable by prison terms and fines, and in the case of the Ragging Act, the offence may also be punished with expulsion in the case of a student, and dismissal in the case of a staff member.

The OUSL has determined that it is necessary to:

- (a) Adopt a zero tolerance policy on sexual harassment in the OUSL, and
- (b) Maintain a workplace and an academic environment free from any form of sexual harassment, and which is conducive to maintaining the dignity, security and personal integrity of all staff and students, and
- (c) Provide for a mechanism to prevent sexual harassment in the OUSL, and
- (d) Provide procedures for redress for any incident of sexual harassment,

and therefore adopts this Code for the prevention of and redress for sexual harassment within the OUSL.

2. DEFINITION AND NATURE OF SEXUAL HARASSMENT

- 2.1 Sexual harassment is behaviour of a sexual nature that is unwelcome, sex based and/or gender based, and which makes another person feel threatened, embarrassed, humiliated and/or intimidated.
- 2.2 Sexual harassment may be inflicted on another person/s by acts, words, gestures, and any form of verbal or written communication. It includes, but is not limited to the following:
 - (a) Unwelcome sexual advances and unwanted sexually oriented comments in the form of verbal, non-verbal, or physical conduct. This may take the form of lewd comments, lurid stares, sexually loaded conversations, slander, remarks, gestures, jokes, letters, phone calls, emails, SMS, MMS, and communication on social media.
 - (b) Showing of pornography.
 - (c) Making or attempting to make unwelcome physical contact, molestation, stalking, sounds including whistling, and displays of a sexual nature.

(d) Requests for sexual favours.

2.3 Both men and women can be victims and perpetrators of sexual harassment. The victim does not have to be of the opposite sex of the perpetrator. Sexual harassment can be perpetrated individually or by a group, on an individual or group.

3. JURISDICTION

This Code shall apply to action and behaviours that take place on any premises of the OUSL, whether or not the parties concerned are staff or students. It shall also apply to actions outside the premises or online, where the victim/s and the perpetrator/s are staff or students of the OUSL, and/or where any university interest is involved.

4. SEXUAL HARASSMENT COMPLAINTS COMMITTEE

4.1 There shall be established in the OUSL a Sexual Harassment Complaints Committee (SHCC).

4.2 The SHCC shall be composed of

- (a) Two members of the Council nominated from among the appointed members, one male and one female
- (b) Two permanent members of the Senate, one male and one female
- (c) Two members from among the administrative staff, one male and one female
- (d) The university counsellor (of the University Medical unit)

The members under categories 4.2 (b) and (c) shall have served in the university system for a minimum of 10 years.

4.3 A person who has a pending case of sexual harassment against him/her or who has been found guilty of sexual harassment shall not be eligible to be appointed to the SHCC.

4.4 The Vice-Chancellor, Deputy Vice-Chancellor/s, Registrar, Bursar, Deans of Faculties, Heads of Departments, Heads of Administrative Divisions, Directors and Assistant Directors of Regional Centres shall not be eligible to be appointed to the SHCC.

4.5 One of the two members nominated by the Council shall chair the SHCC.

4.6 The term of office of a member of the SHCC shall be three years.

- 4.7. (a) Every member of the SHCC shall sign an oath of confidentiality. Such oath of confidentiality shall remain in force after a member has completed his/her term of office.
- (b) A sitting member who violates the oath of confidentiality shall be immediately removed from the SHCC and shall be disqualified from re-appointment.

4.8 A member may resign his/her office at any time by giving notice in writing to the Vice Chancellor.

5. PROCEDURE TO ADDRESS COMPLAINTS OF SEXUAL HARASSMENT

- 5.1 (a) Any person, whether or not he/she is a member of the staff or a student of the OUSL, who has been subject to sexual harassment within any premises of the OUSL by a member of staff or a student of the OUSL; or
- (b) any member of the staff or a student of the OUSL, who has been subject to sexual harassment by a member of the staff or a student of the OUSL in the context of the complainant's employment or academic advancement, work benefits or any activity of the OUSL,

may bring a complaint of sexual harassment against such other member of staff or student.

- 5.2 A complaint may also be brought by any person on behalf of the alleged victim or by another person who has witnessed such sexual harassment.
- 5.3 The complaint shall be forwarded to the Chairperson or any member of the SHCC. Where the complaint has been forwarded to a member, such member shall immediately forward it in turn to the Chairperson of the SHCC.
- 5.4 The complaint shall be in writing and signed by the complainant. Where the complaint is made orally the person receiving the complaint shall record it in writing and the complainant shall sign it.
- 5.5 On receipt of the complaint the Chairperson of the SHCC shall inform the Vice Chancellor forthwith and shall summon a meeting of the SHCC as expeditiously as possible and in any case within seven (07) working days. In the event that the Chairperson is not available, the complaint shall be forwarded to the other representative of the Council who shall summon the meeting and act as Chairperson. In the event that both representatives of the Council are not available a representative of the Senate shall act as the Chairperson. The quorum for a meeting shall be 4 members.
- 5.6 The SHCC shall review the complaint and nominate a member, who shall, together with the Chairperson or the member who received the complaint, interview the complainant and

determine the course of action to be followed.

5.7 Such members shall:

- a. record the dates, times and facts of the incident(s);
- b. Discuss with the complainants the outcome that the complainant wants;
- c. Explain to the complainants the university procedures for dealing with the complaint;
- d. discuss with the complainant and agree upon the next steps to be followed – either mediation or formal inquiry, while explaining that mediation will not preclude the complainant from pursuing a formal inquiry if he/she is not satisfied with the outcome of mediation;
- e. keep a confidential record of all discussions;
- f. respect the choice of the complainant; and
- g. report the course of action to the SHCC at a further meeting that shall take place within 07 working days.

6. MEDIATION

- 6.1 A complainant may request that the matter be mediated in order to resolve the issue and prevent its recurrence. The fact that the complainant has opted for this course of action shall not prevent him/her from seeking further redress through a formal procedure within the OUSL or under any law.
- 6.2 Where the complainant has opted for mediation, the SHCC shall appoint two mediators, one from within and one from outside the OUSL, who shall represent the genders of the parties to the complaint.
- 6.3 The mediation shall take place within (21) twenty one working days of the complainant requesting such mediation at a time and in a location which ensures the confidentiality of all parties concerned.
- 6.4 The mediation shall be conducted in the presence of (a) the two members nominated by the SHCC in terms of subsection 5.6, and (b) a representative chosen by each party if such party so desires. No person qualified in law shall be permitted to be present at the mediation, provided that such condition shall not apply to any parties to the complaint. The members of the SHCC shall ensure that the mediation is conducted in a manner conducive to resolving the complaint.

6.5 If the parties agree to a settlement, the terms of such settlement shall be recorded and signed by the parties, the mediators and the two members of the SHCC. A copy of such settlement shall be forwarded to the Vice Chancellor who shall endorse the document and declare the matter closed.

6.6 The recorded settlement shall be kept confidential in safe custody in the Vice Chancellor's office and shall be destroyed ten (10) years after the date thereof.

6.7 Where the parties do not agree to a settlement the mediators shall forward a report to the SHCC, stating that the complaint cannot be settled by mediation.

7. FACT FINDING COMMITTEE AND FORMAL INQUIRY

7.1 Where the mediation procedure fails either or both parties may request a formal inquiry into the complaint.

7.2 The SHCC shall appoint a fact finding committee composed of two (02) persons to inquire into the complaint within two weeks of the completion of the mediation process. Such committee shall include at least one person from outside the OUSL.

7.3 The inquiry shall take place at times and in a venue which ensures the confidentiality of the process and the parties concerned.

7.4 Such fact finding committee shall complete its investigations and forward its report to the SHCC within two weeks of the date of appointment. Such report shall indicate whether or not there is a prima facie case of sexual harassment against one or more of the parties concerned.

7.5 The SHCC shall forward the report of the fact finding committee to the Vice Chancellor, and where such report indicates that there is a prima facie case of sexual harassment against one or more of the parties in the case, it shall request the Vice Chancellor to institute a formal inquiry into the matter.

7.6 The Vice Chancellor shall, within seven (07) working days of receiving the report appoint a formal inquiry committee to inquire into the matter. The formal inquiry committee shall consist of three persons who shall be from outside the OUSL.

7.7 The inquiry shall be conducted in accordance with the regulations for disciplinary inquiries against staff or students as the case may be and shall be completed as expeditiously as possible.

7.8 The report of the formal inquiry committee shall be submitted to the Vice Chancellor within two weeks of the completion of the inquiry who shall forward a copy to the Chairperson of the SHCC. Such report shall be tabled at the next Council meeting for further action, provided that the Council members who are members of the SHCC shall not participate in any discussion or decision on the report.

8. IMPROPER COMPLAINTS OR ALLEGATIONS

1.8 It shall be an offence for any person to bring knowingly frivolous, false or malicious allegations of sexual harassment against another person and doing so will subject such person to disciplinary action.

Provided however, that an allegation shall not be deemed to be knowingly frivolous, false or malicious only by reason of the fact that it has not been proved after inquiry.