



### GENDER BASED VIOLENCE POLICY

Name of Document:	Gender Based Violence Policy	
Reference Number:	TBA	
Originator/ Author: (name and position)	Senate Task Team and Executive Director: Human Resources	
Custodian: (position/ office)	Human Resources	
Structures Consulted	EMC	01 June 2017
	JCF	14 June 2017
	Staffing Committee	22 August 2017
	Senate	30 August 2017
Approved by:	Council	18 September 2017
Effective date:	01 October 2017	
Document Review date:	30 September 2020	
Implementation Responsibility:	Human Resources and Student Services	

Person Responsible for implementation	Executive Director HR and Executive Director Student Services	<u>Signature</u>	<u>Date</u>
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## 1. PREAMBLE

Gender based violence is an affront to human dignity and is fundamentally at odds with the ethos and the values of the South African Constitution, to which the University of KwaZulu-Natal subscribes. The University is committed to providing a work and living and learning environment that is free from violence of any form, unfair discrimination or harassment and, in particular will not tolerate any member of its community engaging in violence on the basis of gender, sex, marital status or sexual orientation.

The University acknowledges that all forms of gender-based violence (hereafter GBV) can only be understood within the larger context of normative gender roles and practices and continued unequal power relationships which exist in heterosexual and same-sex interactions as well as other forms of discrimination including, but not limited to gender, sex, marital status, sexual orientation, class, race, ethnicity, language, age, citizenship, and disability.

The University will not tolerate the justification of any form of GBV on the basis of patriarchal, societal, cultural, institutional or religious norms and practices that legitimise and perpetuate GBV.

This policy seeks to create a comprehensive framework to prevent incidents of GBV; to manage the University's response to such incidents; to create an environment free from GBV, and to ensure an expeditious and just response to instances of GBV.

This policy is binding on all University staff, students and third party contractors.

The following should be read in conjunction with:

- UKZN Student Disciplinary Rules and the UKZN Student Code of Conduct
- UKZN Staff Disciplinary Code
- Sexual Harassment policy
- Relevant legislation

## 2. DEFINITIONS

In this policy, unless stated otherwise -

**Complainant** means any person alleging any form of GBV whether or not he or she is a member of the University community, and whether or not he or she falls into any of the categories of persons defined above.

**Consent** refers to informed, voluntary and explicit communication of agreement between the parties involved. Consent cannot be procured by the use of physical force,

compelling threats, intimidation, coercion and any other controlling behaviour. Silence cannot be interpreted as consent.

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

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

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

**Perpetrator** means any person alleged to have committed an act of GBV, whether or not he or she falls into any of the categories of persons defined above. An alleged perpetrator is the respondent in disciplinary proceedings.

**Rape** means an unlawful and intentional act of sexual penetration between two or more persons, without the consent of one of those persons.

**Senate** means the Senate of the University of KwaZulu-Natal.

**Sexual assault** means an unlawful and intentional act of a sexual nature with another person without that person's consent.

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

- a) Physical harassment such as unwanted and deliberate physical contact.
- b) Verbal harassment such as:
  - demeaning verbal comments of a sexual nature;
  - subtle or explicit demands for or offers of sexual favours which demand implicitly or explicitly a condition that may affect a decision or other action in respect of student admission, funding, grading or academic progress or carries a condition that may affect a decision or other action in respect of staff recruitment, selection, appraisal, promotion or career progress or carries

- a condition that may affect a decision or other action in respect of third party contractor's goods or services; also called quid pro quo harassment;
- unwanted or unwelcome innuendos, suggestions and hints of a sexual nature; and/or
  - comments with sexual overtones which creates an intimidating or offensive and/or hostile learning or working environment that interferes with academic and/or work performance.
- c) Non-verbal harassment such as:
- the transmission, by any means, electronic or otherwise, or the gratuitous display of sexually explicit written or audio-visual materials;
  - offensive gestures or actions of a sexual nature such as indecent exposure;
  - stalking behaviour such as pursuing or following a person, or non-consensual communication or other contact.

**Staff** means any person who is employed by the University, in any capacity whatsoever, including but not limited to a permanent or contractual capacity.

**Student** means a person who has been admitted to the University for the purpose of studying or who has registered for a qualification. A student remains a student until such time as that person graduates or otherwise completes studies, or withdraws from the University, or fails to attend or register in any semester, or is excluded and all appeal processes for re-admission have been exhausted.

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

**University** means the University of KwaZulu-Natal, and includes any campus of the University, as well as any other buildings, premises or sports facilities, which are owned or otherwise occupied by the University for the purposes of the activities of the University. This includes but is not limited to 'off-campus' residences, sports facilities, buildings and premises that are not situated on any campus.

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

### 3. JURISDICTION

3.1 Under this policy, the University is able to investigate alleged incidents of GBV:

- that are reported to the University, or
- that occurred at the University, or

- that occurred outside the University, but have migrated to or have created a hostile environment at the University; or
  - that occurred during the course of University programmes (regardless of location), or
  - where the respondent is a staff member, student or third party contractor.
- 3.2 This policy applies to staff, students or third party contractors at the University, and to any act of GBV by a staff member, student or third party contractor at or outside the University.
- 3.3 This policy applies to any complainant alleging GBV by a staff member, student or third party contractor, whether or not the complainant is a staff member, student or third party contractor.

#### **4. POLICY PRINCIPLES**

- 4.1 All forms of GBV can only be understood within the larger context of normative gender roles and practices and continued unequal power relationships which exist in heterosexual and same-sex interactions between men and women as well as other forms of discrimination including, but not limited to, gender, sex, marital status, sexual orientation, class, race, ethnicity, language, age, citizenship, and disability.
- 4.2 The University will not tolerate the justification of any form of GBV on the basis of patriarchal, societal, cultural or religious norms and practices that legitimise and perpetuate GBV.
- 4.3 In any complaint involving an alleged act of GBV, the University commits itself to respecting and protecting the rights of all the parties involved to confidentiality, privacy, dignity and psychological and physical bodily integrity.
- 4.4 The University commits itself to ensure complainants have access to counselling and health services in response to an act of GBV.
- 4.5 The University reserves the right where appropriate and necessary to amend existing disciplinary rules and codes of conduct to make provision for GBV as a serious offence denoting severe sanctions.
- 4.6 In addition to possible internal disciplinary proceedings, the University further commits itself to advising the complainant of his/her right to institute civil and/or criminal proceedings against the alleged perpetrator of the GBV.
- 4.7 The Senate of the University shall establish a GBV Committee (GBVC) to receive and investigate complaints of GBV. The committee shall comprise of knowledgeable members who are representative of the different interest groups.

- 4.8 The University commits itself to regulations for the implementation of this policy. The regulations will prescribe the steps to follow when a complaint of GBV is received and the response measures that must be taken.
- 4.9 The University will record all decisions taken under this policy, and keep comprehensive updated and accurate data on all reported cases of GBV, and will ensure that an annual statistical report is submitted to Senate.
- 4.10 The University commits itself to facilitating educational interventions towards raising awareness and developing understanding about gender-based violence, including the contexts of gender power inequalities and normative gender roles and sexualities that shape and legitimize practices of GBV.
- 4.11 The University commits itself to monitor the effective implementation of this policy.

## **5. DISCIPLINARY MEASURES**

- 5.1 This policy will apply to the UKZN Student Disciplinary Rules and Code of Conduct. Any violation thereof will be subject to the appropriate sanctions depending on various factors such as the severity or gravity of the offence, the interests of the University and the impact on the complainant.
- 5.2 This policy will also apply to all staff. Any violation thereof will be subject to the appropriate sanctions depending on (but not limited to) the factors as mentioned in 5.1 above.
- 5.3 This policy will be incorporated in all agreements with third party contractors, their agents and sub-contractors rendering services to the University. Any violation thereof by such third parties will be subject to the appropriate sanction depending on (but not limited to) the factors as mentioned in 5.1 above.

## **6. SCOPE OF APPLICATION**

This policy shall apply to all University staff, students and third party contractors

## **7. EFFECTIVE DATE**

The effective date of this policy shall be 01 October 2017.

## **8. REVIEW DATE**

This policy shall be reviewed, at minimum, every three years.