

**(AMENDMENT)**  
**BY-LAW RELATING TO SEXUAL AND GENDER-BASED VIOLENCE (SGBV)**

Given below is the By-law relating to Prevention and Response to Sexual and Gender – based Violence made by the Council of eastern University, Sri Lanka under Section 135 of the Universities Act No: 16 of 1978 as amended by Acts No 7 of 1985 and No 26 of 1988 and enforced with effect from 27th February, 2016.

**This By-law may be cited as the Sexual and Gender-Based Violence By Law No 1 of 2016**

**GENERAL**

01. The Eastern University, Sri Lanka (herein referred to as “the University”) hereby adopts this By-Law as approved by the Council of the University (herein referred to as “the Council”) at its 262<sup>nd</sup> meeting held on 26<sup>th</sup> February, 2016 being prepared under the provisions of the section 135 of the Universities Act No. 16 of 1978, as amended by the Universities (Amendment) Act No 07 of 1985 and No 26 of 1988,” herein after referred to as “the Act”). This By-Law supersede any other By-Law or Regulations that may have been issued earlier.
02. Notwithstanding anything to the contrary in any of the provisions of this By-Law, the Vice-Chancellor shall take appropriate action he deems necessary to maintain discipline at the University and nothing in this By-Law shall be construed in a manner to detract from the powers, duties, and functions conferred on or imposed upon the Vice-Chancellor by the Universities Act No. 16 of 1978 (herein referred as the “Act”) or by any other instrument.
03. Upon coming into operation of this By-Law, there shall be established a Standing Committee (referred to as the “Committee) constituted as provided in Sub-paragraph (2).
04. The Standing Committee shall consist of the following members, who shall hold office for a period of 03 (three years) with effect from the date of appointment
  - ***Two members of the Council nominated by the Council from among its appointed members (one male & one female)***
  - Registrar
  - Rector/Trincomalee Campus
  - Deans of Faculties of EUSL
  - Proctor
  - ***Representative of EUSL at the UGC Standing Committee on GEE***
  - Senior Student Counsellor
  - Director/Staff Development Centre
  - Director/Career Guidance Unit
  - 2 Wardens of the Hostel (one male & one female)
  - Chief Marshal or his nominee
  - A Gender Specialist appointed by the Vice-Chancellor
  - 2 representatives from among the administrative staff (one male & one female)
  - 2 representatives from among the non-academic staff (one male & one female)
  - 2 representatives from among the students (one male & one female)

- Head/Legal and Documentation Division
  - Deputy Registrar (Convenor/Coordinator until a permanent appointment of the AR/Legal & Documentation is made)
05. ***The Committee shall elect a Chairperson amongst the two Council members who shall preside at all meetings of the Committee.***
06. The Head/Legal and Documentation Division shall be the ex-officio secretary to the Committee and the Coordinator. The Coordinator is responsible for complying with and carrying out the responsibilities under the Policy Framework for Gender Equity/Equality and this By-Law.
07. The quorum of the meeting of the Committee shall be 12 members.
08. ***An 'Investigating Committee' of 3-5 members, (independent of the University) shall be appointed by the Council on the recommendation of the Vice-Chancellor for investigations and meting out punishments.***
09. Subject to the provision to the Act, and of any other appropriate instrument the Committee shall work under the directive of the Vice-Chancellor who is responsible for maintenance of discipline of the university and have the following powers, duties and functions;
- to advice the Vice-Chancellor on all matters concerning the maintenance of staff and student discipline within the University;
  - to make recommendation to the Vice-Chancellor on the amendments to the By-Law on sexual and gender- based violence and guidelines pertaining to staff and students discipline;
  - upon the request by the Chairperson of the Standing Committee on SGBV to hold inquiries or cause inquiries to be held pertaining to allegations of sexual and gender-based violence on the part of any students or staff of the university and submit recommendations on the incidents of sexual and gender based violence to the Vice-Chancellor;
  - review the reports of the committees of inquiries appointed by the Chairperson of the Standing Committee on SGBV and recommend appropriate penalties or punishments, on any students or staff who have been found guilty of any acts of sexual and gender-based violence or who have been found guilty of an offence under this by-law or of acting in contravention of the provisions of this By-Law or Rules made by the Committee;
  - to do all other acts incidental to the powers aforesaid as may be required in order to further the objectives of this By-Law;
  - any questions regarding the interpretation of the By-Law shall be referred to the Council whose decision thereon shall be final.
10. The code of conduct for the Committee on SGBV includes:
- Treating victims with compassion, sensitivity, respect and patience

- Being impartial
- Not blaming the victims
- Investigating thoroughly
- Being patient
- Not compromising cases/offences
- Being professional
- Being supportive

## **STRATEGIES TO PREVENT AND ADDRESS SGBV**

11. Disseminate information on GEE policies, SGBV and related grievance handling procedures to staff and students through interactive dialogue brochures, handbooks, flyers etc.
12. Leadership from the highest and at all levels is required in order to give those staff responsible for implementing the policy, the authority and mandate to carry out the relevant measures effectively.
13. Work place policy/Code of conduct which sets out acceptable behaviour for staff and students; the policy enforced and appropriate mechanism for doing so established and ensure consistency in addressing misconduct.
14. University takes gender issues into account in planning infrastructure development so as to ensure that gender sensitive infrastructure and facilities are in place.
15. Create capacity building programmes to gender sensitise all staff and students.
16. Promote gender and diversity research especially research on SGBV in the University.
17. Ensure that there is equal representation of men and women students as officer bearers on student councils/unions/societies.
18. Create widespread awareness about the grievance mechanism to address complaints of SGBV and create suitable conditions for its implementation and encourage those affected to file complaints.
19. Create awareness and encourage students and staff towards the zero tolerance of SGBV within the University.
20. Establish a special fund for student victims that are mandated to provide medical services, legal assistance and professional counselling from the point of making the initial complaints and throughout the inquiry.
21. Train student counsellors to handle victims of SGBV and establish victim support programmes and a network of victim volunteers to offer support to complainants.
22. Provide institutional avenues for offenders to meet trained counsellors and deal with the root causes of offenders.
23. Compile a database of reported incidents of SGBV within the University.
24. Recognise and reward “champions” who are active in promoting gender equity/equality and eliminating SGBV;

25. Ensure that the gender concerns conflict resolution, gender related problem solving, SGBV etc. are mainstreamed into the staff development and other training programmes.
26. Train volunteer groups of students to raise consciousness on SGBV among their peers

#### **PROCEDURE FOR INVESTIGATION**

27. All complaints, allegations, and reports of inappropriate behaviour under this By-laws should be made to the Coordinator/Secretary of the Standing Committee on SGBV.
28. Any person included within the scope of this policy, who considers him or herself to be a victim of sexual or gender-based violence may file a grievance with the Secretary of the Committee on SGBV;
29. A complaint may also be filed by a third party who is aware of the situation of harassment, including heads of departments and worker's or student's representatives. In these cases the Coordinator/Secretary of the Committee on SGBV will forward a copy of the complaint to the alleged victim so that he or she may ratify it, if appropriate;
30. Any member of the university community has the duty to report to their Heads / Deans / Supervisors or to the Coordinator/Secretary of the Committee on SBGV any situation of possible sexual or gender-based violence that they may be aware of;
31. The complaint must be presented by the complainant to the Coordinator/Secretary of the committee within a period of one month from the date of incident in a sealed envelope or verbally;
32. If the complaint is filed verbally to the Coordinator/Secretary a document will be drawn up and it must be signed by the complainant for the record and submitted to the Coordinator/Secretary .
33. Upon receiving notice of a "Complaint" the Coordinator/Secretary shall promptly assess the situation.
34. ***Once the complaint has been accepted by the Secretary for processing, it will be forwarded to the Vice-Chancellor to submit the complaint to the Investigating Committee. Investigating Committee may be supported by the Standing Committee on SGBV with respect to documentation.***
35. ***Mechanisms should ensure that all complaints are addressed with due regard to key principles including confidentiality impartiality, objectivity, timelines, accuracy and thoroughness. Investigations should be brought to a close within a stipulated time (as early as possible and not exceeding four weeks)***
36. Ensure proper documentation of evidence provided during investigations;

37. *Complaints once made cannot be withdrawn. University ensures that victims are provided with information about their rights when laying charges to discourage withdrawal of SGBV cases.*
38. *Investigation of the complaint will be carried out independently by an Investigation Committee appointed by the Council for this purpose.*
39. Coordinator/Secretary to the Committee on SGBV should keep all records on SGBV cases confidential. All the files/documents should be kept in a secure area and uploaded to the online system.
40. *The final outcome and decisions of the Investigating Committee will be informed to the Vice-Chancellor for information to the Council and necessary appropriate action. UGC to be informed of the results*
41. The parties involved in SGBV proceedings are protected from any intimidation, threats or reprisals once an incident has been reported.
42. Any student or staff (perpetrator) on whom punishment has been imposed by the Council on the recommendation of the Investigating Committee may appeal against such punishment or penalty within a period of one month from the date of communication to him of such punishment.
43. *Upon the receipt of an appeal the Vice-Chancellor shall refer such appeal to an appeals Committee at the UGC.*

#### **Dissemination of the By-Law**

44. To ensure effective dissemination of the policy to all members of the University community.
  - Utilise education and awareness campaigns and small group discussions to raise awareness of the GEE policy and SGBV By-law.
  - Encourage media outlets to provide in-depth reporting about gender-based violence.
  - Produce Braille editions of SGBV By-Law.
  - Incorporate the By-Law in the orientation of new students and in mentoring programmes.
  - Develop pamphlets, booklets and radio broadcasts in all three languages explaining step to follow when faced with gender-based violence and official procedures for relevant service provision.

#### **Monitoring and Evaluation**

45. To appraise the steps taken and the success in the implementation of the policy:

- Establish a committee and mechanisms to monitor and evaluate the performance of the University in implementing this By-Law.
- Put in place monitoring indicators with time frames to measure the implementation process.
- Put in place a forum for receiving views of members of the university regarding the By-Law
- Review the By-Laws time to time to take into account emerging issues and trends through research.

## **DEFINITIONS**

46. In this by-Law the definitions of the following words shall be

### **Discrimination**

Direct discrimination means treating someone less favourably than someone without that attribute or someone with a different attribute in the same or similar circumstances. Indirect discrimination occurs if a person imposes or proposes to impose an unreasonable requirement, condition or practice that someone with a protected attribute does not or cannot comply with and a higher proportion of people without that attribute or with a different attribute can comply with.

### **Sexual harassment**

Sexual harassment is defined as any behaviour of a sexual nature that is unwelcome and occurs in circumstances where a reasonable person would anticipate that the person who was harassed would be offended, humiliated, or intimidated. Sexual harassment can take various forms and could include any of the following:

- Unwelcome touching, hugging, or kissing
- Suggestive comments or jokes
- Unwanted invitations to go out on dates or requests for sex
- Sexually explicit e-mails
- Use of university computer systems for the retention and distribution of sexually explicit material
- Display of sexually explicit posters, screen savers, or pictures
- Accessing sexually explicit internet sites
- Intrusive questions or comments about a person's private life, body, or sex/gender

### **Criminal behaviour**

Some types of sexual harassment and other behaviours may be criminal offences and so may be referred to the Police. These types of behaviour include:

- Physical molestation or assault

- Indecent exposure
- Sexual assault
- Stalking
- Obscene communications (telephone calls, letters etc.)
- Serious racial or religious vilification
- Victimisation

### **Complainant**

A complainant is the person who lodges a complaint

### **Respondent**

Respondent is the person against whom a complaint has been lodged.

### **Defamation**

A complaint of sexual harassment, harassment and discrimination which is brought to the attention of a respondent can sometimes result in the respondent threatening to take action for defamation.

Defamation is the publication of a statement about a person which causes that person's reputation with other people to be lowered, or causes them to be shunned, avoided or brought into ridicule.

It is not defamatory to make a complaint to a person who has a legitimate interest in knowing about the incident (ie. to a Contact Officer, Conciliator or Investigator) in order to seek redress under these Guidelines. Where the duties of persons such as Contact Officers, Conciliators and Investigators, involve receiving information and documenting it for reporting to appropriate people, they are, under normal circumstances, protected from liability for defamation by the deference of "qualified privilege".

### **Defining Unlawful Harassment**

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of that person's (or that person's relatives', friends', or associates') race, skin colour, religion, gender, national origin, age, or disability, and that:

- Has the purpose or effect of creating an intimidating, hostile, or offensive work environment
- Has the purpose or effect of unreasonably interfering with the individual's work performance
- Otherwise adversely affects the individual's employment opportunities.

### **Racial and/or religious vilification**

The Victorian *Racial and Religious Tolerance Act 2001* makes it unlawful to vilify another persons or class of persons on the grounds of race or religion. The Act prohibits conduct

that incites hatred against, serious contempt for, or revulsion or severe ridicule of, another person or class of persons. Examples of conduct include badges or insignia and making racist speeches at a public rally.

The Act generally excludes private conduct except where it occurs in circumstances in which the conduct could reasonably be expected to be heard or observed by a third party. Section 11 of the *Racial and Religious Tolerance Act 2001* states that a person does not contravene the Act if the conduct was engaged in reasonably and in good faith.

- (a) In the performance, exhibition or distribution of an artistic work:
- (b) In the course of any statement, publication, discussion or debate made or held, or any other conduct engaged in for any genuine academic, artistic, religious or scientific purpose, or any purpose that is in the public interest;
- (c) In making or publishing a fair and accurate report of any event or matter of public interest.

### **Victimisation**

It is unlawful to victimise (treating less favourably) someone because they have exercised their rights under workplace anti-discrimination policies or the law because they have:

- Made an inquiry about their rights under workplace policies, equal opportunity or occupational health and safety laws;
- Made a complaint of or sexual harassment
- Been a witness to, or participated in, and discrimination, harassment investigation of complaint.

### **Complaint**

“Complaint” means a complaint that is lodged with the University in the forms of a letter, complaint Pro-forma Form (Appendix 4), email or verbally of;

- (i) Direct discrimination;
- (ii) Indirect discrimination;
- (iii) Sexual harassment;
- (iv) Racial or religious vilification
- (v) Victimization;
- (vi) Authorizing and assisting any of the above behaviours;
- (vii) Breach of freedom of association (ie. people have the right to freely associate with others and to form and join trade unions); and/or
- (viii) Bullying/harassment

The written complaint must be marked “Private and Confidential”, if a complaint is received verbally, the complainant will be asked to sign the record of interview.

### ***Sexual and Gender-based Violence (SGBV)***

*Sexual and gender-based violence refers to acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, whether occurring in public or in private life based on one's gender and /or sexuality. It includes sexual harassment, domestic violence (DM) and intimate partner violence (IPV) amongst other practices (based on the UN Declaration on the Elimination of*