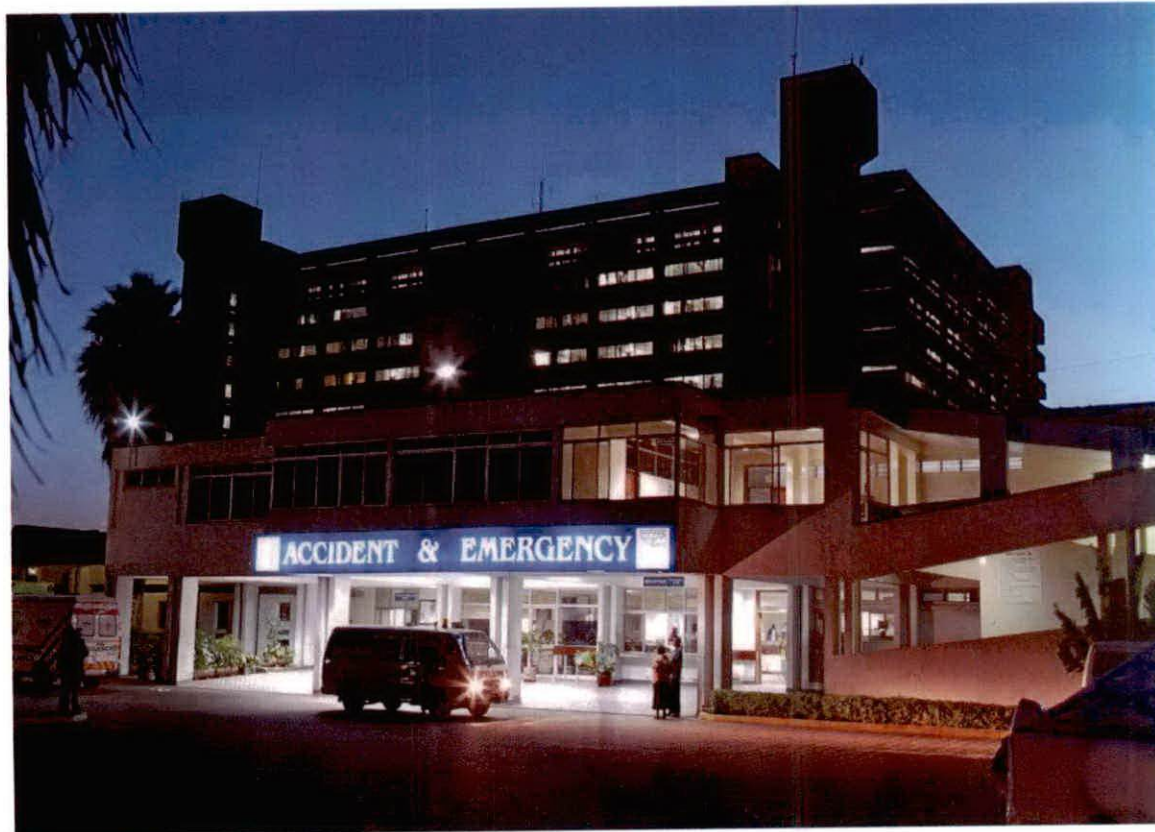




Kenyatta National Hospital

KNH SEXUAL HARRASSMENT POLICY



DOCUMENT NO.	01
EFFECTIVE DATE	14 TH APRIL 2022
APPROVED BY	KNH BOARD OF MANAGEMENT
SIGNED BY: CEO & SECRETARY TO BOARD	

VISION, MISSION AND CORE VALUES

Vision

A world class patient-centered specialized care hospital

Strategic Destination

A Multi-specialty centre of excellence offering services that meet international certification standards

Mission

To optimize patient experience through innovative, evidence based specialized healthcare; facilitate training and research; and participate in national health policy formulation

Core Values

- Customer focus
 - Accountability
 - Equity and equality
 - Professionalism & integrity
 - Security & Safety
 - Teamwork and Team Spirit
-

Motto

We Listen, We Care

FOREWORD

Kenyatta National Hospital (KNH) being the largest referral and teaching facility in Kenya has a dual responsibility as both an employer and an institution of higher learning. It has a mandate for offering an equal opportunity where all individuals interacting with the institution are protected from any form of mistreatment or discrimination. Kenyatta National Hospital is committed to preventing abuse of personal authority or power in interpersonal relationships in all its dealings and amongst all stakeholders and ensuring that the work environment is free from sexual harassment.

Various governments including Kenya have prescribed stiff penalties for sexual offences including sexual harassment. Sexual harassment is not tolerated in Kenyatta National Hospital and in line with this, the hospital has seen the need to develop rules and regulations governing issues surrounding sexual harassment in the workplace and ensure that it is communicated in a clear manner. This is to ensure proper and acceptable relation between individuals within the hospital without infringing on others rights. The Hospital has established the need to stipulate what sexual harassment entails and creating a fair process of handling sexual harassment that focuses on the offenders as well as those affected.

It is imperative that all staff, students and faculty strive to avoid any behaviour that is prohibited and should accord appropriate respect to the fundamental rights and dignity of all people regardless of their culture, gender, race, ethnicity, nationality, sexuality, religion, ability, and socio-economic status. It is important to understand that, while the hospital will treat information it has received with appropriate sensitivity, individuals may nonetheless need to share certain information with those responsible for stopping or preventing sexual offences. This will ensure that sexual harassment is dealt with effectively.



DR. EVANSON KAMURI, EBS
CHIEF EXECUTIVE OFFICER

PREFACE

Sexual harassment is unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated. It includes situations where a person is asked to engage in sexual activity as a condition of that person's employment, as well as situations which create an environment which is hostile, intimidating or humiliating for the recipient. Over the years, there has been concerted efforts both nationally and internationally to eliminate Sexual Harassment at the workplace.

Kenyatta National Hospital has recognized the importance of institutionalizing the culture of Zero tolerance on Sexual Harassment. To this effect, the Hospital has developed this Sexual Harassment policy as a guiding framework to guide the Hospital towards this effort. The Policy focusses on the definition of sexual harassment in the workplace, components of sexual harassment, reporting, resolution of complaints, the responsibilities of implementation of the policy and an M&E Framework that will assess the effectiveness of this policy. Regular training and awareness campaigns will be conducted by the hospital in order to ensure a safe environment for all.

The Implementation of this policy will commence with immediate effect. For effective implementation, the Hospital will ensure that this policy is widely disseminated to all relevant stakeholders. All employees will be sensitized on the content of this policy and awareness campaigns will be conducted by the hospital. With the commitment of the Management towards implementation of this policy, the Hospital targets to ensure a safe environment for all free from sexual harassment cases.



DR. JOHN KINUTHIA

CHAIRMAN

SEXUAL HARASSMENT POLICY DEVELOPMENT COMMITTEE

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LIST OF ACRONYMS AND ABBREVIATIONS

CEDAW	:	Convention on the Elimination of all forms of Discrimination Against Women
CEO	:	Chief Executive Officer
EAP	:	Employee Assistant Program
HR	:	Human Resource
HRMAC	:	Human Resource Management Advisory Committee
KMTC	:	Kenya Medical Training College
KNH	:	Kenyatta National Hospital
ILO	:	International Labour Organization
SGBV	:	Sexual and Gender Base Violence
SHPC	:	Sexual Harassment Prevention Committee
SOP	:	Standard Operating Procedure
UoN	:	University of Nairobi
UN	:	United Nations

DEFINITIONS

Accused	The person whom the complaint of sexual harassment is made against.
Complainant	The person who makes the complaint of sexual harassment.
Faculty	Teaching or administrative staff from UoN, KMTC.
Inappropriate	Not proper or unsuitable
Perpetrator	Someone who does illegal, immoral or harmful act.
Survivor	Any person who is subjected to sexual assault.
Staff	Any employee of KNH whether temporary or permanent, contract, attachment.
Stakeholders	People with interests/engagements related to KNH within and without.
Victim	Any person who is subjected to any form of sexual harassment.

INTRODUCTION

1.1. Background

There has been concerted efforts both nationally and internationally to eliminate Sexual Harassment at places of work. At the international level, the Centenary International Labour Conference in its 108th Session on 10th June 2019 adopted a new Convention and Recommendation to combat violence and harassment in the workplace under Convention No. 190. The Convention recognized that violence and harassment in the world of work *"can constitute a human rights violation or abuse...is a threat to equal opportunities, is unacceptable and incompatible with decent work."* It defines "violence and harassment" as *behaviours, practices or threats "that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm."* It reminds member States that they have a responsibility to promote a "general environment of zero tolerance of sexual harassment."

The United Nations (UN) General Recommendation 19 to UN Convention of the Elimination of all forms of Discrimination against Women (CEDAW) defines Sexual Harassment as: *"Such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the lady has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment."*

Kenya prohibits and strongly condemns sexual harassment in the workplace. The Employment Act of 2007 addresses issues of sexual harassment and requires every employer with more than 20 employees to consult with the employees or their representatives and issue a policy statement on sexual harassment. It elaborates that the policy statement should contain the definition of sexual harassment, steps to prevent sexual harassment, measures to detect sexual harassment should it happen, and strategies to mitigate sexual harassment while maintaining confidentiality and anonymity. It also explicitly states that the employer shall bring the policy statement to the attention of all the employees on the policy statement.

KNH has zero tolerance to sexual harassment and is committed to eliminating sexual harassment in the workplace. It is devoted to creating and maintaining a conducive working and learning environment free from any form of sexual harassment. This Policy is an embodiment of KNH's effort to prevent sexual harassment and deal with such cases when they arise.

1.2. Policy Objectives

The main objective of this policy is to detail measures to create a sexual harassment free environment thereby contributing towards the enabling of a healthy and productive workforce at the hospital.

The specific objectives are to:

- i. Create awareness of what sexual harassment is to all staff, faculty and students.
- ii. Provide a conducive work place environment that is free of sexual harassment.
- iii. Provide standard procedures for detection and mitigation of any allegations of sexual harassment.
- iv. Provide an effective reporting and response system for sexual harassment complaints.

The main objective of this policy is to detail measures to create a sexual harassment free environment thereby contributing towards the enabling of a healthy and productive workforce at the hospital.

1.3 Policy Statement

Kenyatta National Hospital Board of Management and staff are committed to providing a safe environment for all its employees free from discrimination on any ground and from harassment at work including sexual harassment. KNH will operate a zero-tolerance policy for any form of sexual harassment, treat all incidents promptly and resolve all complaints arising from sexual harassment.

1.4 Scope of the Sexual Harassment Policy

This Policy covers all individuals who are receiving or providing services within the hospital. It applies to all physical, virtual and any other workspaces within KNH and extends to work-related duties or activities including conferences, training and social functions among others. Any person subjected to sexual harassment within the spaces specified above may initiate a complaint under this Policy.

1.5 Legal Framework

This Policy shall be guided by the relevant laws and principles outlined below.

- i. The Constitution of Kenya 2010; Article 27, 28 & 29.
- ii. The Sexual Offences Act No. 3 Of 2006.
- iii. The Employment Act, 2007.
- iv. Women in Africa
- v. Penal Code Cap 63.
- vi. UN Convention of the Elimination of all forms of Discrimination Against Women (CEDAW).
- vii. The ILO Discrimination (Employment and Occupation) Convention (No. 111).
- viii. The Protocol to the African Charter on Human and Peoples' Rights.

1.6 Guiding Principles

This Policy shall be governed by the following principles:

- i. Rules of natural justice encompassing procedural fairness and unbiased decisions based on logical proof or evidential material.
- ii. Fair administrative action which is expeditious, efficient, lawful and reasonable.
- iii. Opportunity to be heard and to make representations.

ELEMENTS OF SEXUAL HARASSMENT

2.1. Definition of Sexual Harassment

Sexual harassment refers to unwelcome and unreasonable sex-related conduct that is perceived to cause offense or humiliation to the victim and creates intimidating, hostile, or offensive work environment. It does not depend on the gender, age or position of either the victim or the perpetrator.

Sexual Harassment may be propagated as verbal abuse, physical abuse, emotional and psychological abuse or the display of pornographic content. Sexual harassment includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome:

- i. Making a request or exerting pressure for sexual activity or favors;
- ii. Making intentional or careless physical contact that is sexual in nature; and
- iii. Making gestures, noise, jokes or comments including innuendos, regarding another person's sexuality.

2.2. Forms of Sexual Harassment

2.2.1. Physical-This constitutes:

- i. Sexual assault as defined by the Sexual Offenses Act of 2006.
- ii. Indecent exposure of one's genitalia.
- iii. Touching or fiddling with a person's clothing including lifting up of clothing, flicking bra straps or putting hands in another person's pocket.
- iv. Groping.
- v. Stalking.
- vi. Obscene gestures.
- vii. Rubbing ones genitals on a person.
- viii. Unwelcome/uninvited physical contact.
- ix. Infringement on personal space.
- x. Non-consensual kissing or kissing attempts.

2.2.2. Verbal-This constitutes:

- i. Unwelcome verbal sexual advances.
- ii. Making promises or threats in return for sexual favors.
- iii. Requests or demands for sex or repeated unwanted requests to go out on dates after prior refusal.
- iv. Suggestive sexually demeaning remarks, comments or jokes, vulgar jokes or comments about the person's body or clothing.
- v. Catcalls.
- vi. Inappropriate comments or questions about the person's social and sexual life.
- vii. Sex based insults, taunts, teasing or name calling.
- viii. Unsolicited, intrusive or demeaning comments or questions about a person's body, sexuality, sexual orientation, gender identity or gender expression.

2.2.3. Written or Visual-This constitutes:

- i. Unwanted or unwelcome sexually explicit letters, emails, text messages or any other electronic content.
- ii. Transmission of unwanted or unwelcome sexual material including photos, videos, pinups.
- iii. Obscene gestures.
- iv. Displaying sexually graphic materials including posters, magazines, cartoons, or leaving messages on desks, notice boards, or common areas.

COMPLAINT HANDLING MECHANISM

3.1 Introduction

Survivors of sexual harassment have the right to get care from any provider they may choose and reporting of the incident is voluntary. However, for action to be taken by the employer on the alleged perpetrator, a formal complaint is required through the following procedures.

NB: All complains of sexual harassment shall be handled with utmost confidentiality, and names will not be used.

3.2 Reporting Mechanism for Sexual Harassment involving Hospital Staff and Affiliated Stakeholders

A sexual harassment complaint is subject to the following internal resolution mechanism.

- i. A formal complaint of sexual harassment shall be made to the office of the Employee Assistance Program (EAP) in Human Resource (HR) Division by completing the Hospital Sexual Harassment complaint form.
- ii. Care shall be provided at the Sexual and Gender Based Violence Centre (SGBV) at the Department of Mental Health or Accident and Emergency in case of sexual assault and a report of the incident shall be made to EAP office.
- iii. A report of the incident prepared by the EAP officer (including a completed sexual harassment complaint form (Appendix 7.1) shall be handed over to the Director HR for action.
- iv. The Director HR shall then hand over the report to Hospital Sexual Harassment Prevention Committee (SHPC) within 5 calendar days.
- v. SHPC shall launch investigations to get facts regarding the complaint as per (Appendix 7.2).
- vi. SHPC shall hand over the report with their subsequent findings to the Director HR within 14 calendar days.
- vii. The Director shall hand over the findings to the Human Resource Management Advisory Committee (HRMAC) who will make the final determination regarding the complaint.

NB: The investigation of the complaint by hospital does not stop the survivor from seeking legal redress from other state agencies.

3.3 Sexual Harassment incidents involving Hospital Staff and Other Stakeholders

These incidents may involve hospital staff as the alleged perpetrators against other stakeholders within the hospital or in hospital related activities:

- i. Any KNH officer receiving this complaint will forward the matter to EAP office, where a report of the incident will be prepared.

- ii. The report accompanying a completed sexual harassment complaint form shall be handed over to the Director HR for action.
- iii. The Director HR shall then hand over the report to Hospital SHPC within 3 working days.
- iv. This Committee shall launch investigations to get facts regarding the complaint as per (Appendix 7.2).
- v. The Committee shall hand over the report with findings to the Director HR within 14 calendar days.
- vi. The Director shall hand over the findings to:
 - a. HRMAC if the alleged perpetrator is a hospital staff member.
 - i) HRMAC will make the final determination regarding the complaint.
 - b. The CEO if the alleged perpetrator is not a Hospital staff for onward transmission to the Institution where they come from.

NB: The investigation of the complaint by hospital does not stop the survivor from seeking legal redress from other state agencies.

POLICY AWARENESS AND DISSEMINATION

KNH shall display on its platforms the 'no tolerance' position on inappropriate sexual conduct. Sensitization on the Policy shall be included in induction for new staff. Training materials on prevention of sexual harassment shall available in Hospital website

MONITORING AND EVALUATION

5.1 Introduction

This section provides the Monitoring and evaluation framework for the Sexual harassment policy.

5.2 Role and Responsibilities

Supervisors, managers and those responsible for dealing with sexual harassment cases will report on compliance with this policy, including the number of incidents, how they were dealt with, and any recommendations made. This will be done on a yearly basis.

As a result of this report, the company will evaluate the effectiveness of this policy and make any changes needed.

5.3 Policy Monitoring and Evaluation Framework

The table below highlights the M&E framework that will be used to assess the effectiveness of the Policy.

Table 1: M&E Framework

	KPI	KPI	Baseline What is the current value?	Target What is the target value?	Data Source How will it be measured?	Frequency How often will it be measured?	Responsible Who will measure it?	Reporting Where will it be reported?
Goal	Safe working environment	Zero cases of sexual Harassment	-	0	Analysis report	Quarterly	Director P&S	Executive Management Committee
Outcomes	Policy compliance	% Compliance with policy	-	100	Policy analysis reports	Quarterly	Director P&S	
	Resolution of all complaints	% of complaints resolved	-	100	Complaints registers	Quarterly	Director HR	
	Reduced TAT for resolving complaints	% reduction in TAT for resolving complaints	-	10	Survey report	Quarterly	Director HR	
	Reduced cases of sexual harassment	% Reduction of sexual Harassment cases	-	90	Analysis report	Quarterly	Director HR	
Outputs	Disseminated policy	% of staff with Sexual Harassment policy	-	100	Dissemination report	Quarterly	Director HR	
	Sensitized staff	% of staff sensitized on Policy	-	50	Training registers	Quarterly	Director HR	
	Approved policy	No of approved policies	-	1	Policy database	Quarterly	CEO Office	

ADDITIONAL NOTES

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Please describe any evidence that you might have i.e. email, letter, records of phone contacts etc. or any pictures that may be available

Have you filed a complaint with any other authority?

If yes to whom?

When was this complaint filed?

Please describe any action that so far taken:

What resolution are you seeking?

It may become necessary to disclose your identity and/or complaint, as well as to conduct a formal investigation. Should such disclosure become necessary, it will be only to persons who have a need to know your identity or the details and nature of your complaint. Confidentiality will be preserved to the extent possible.

Date:

Employee/complainant Signature:

Date:

KNH EAP Official signature

APPENDIX 7.2: REQUIREMENTS FOR CARRYING OUT INVESTIGATIONS

While carrying out investigations on any allegation of sexual harassment, the following shall be carried out or observed:

- i. The team should comprise of not less than five (5) officers (where the team is more than five members, the team shall consist of an odd number).
- ii. The officer under investigation and all identified witnesses must be interviewed by the SHPC, which includes virtual.
- iii. SHPC shall record details of any matters which may aggravate or mitigate the case.
- iv. After listening to all witnesses and studying all the documents, the SHPC shall sum up the case and record its findings as evaluated against the evidence.
- v. The investigation report submitted to the relevant Hospital Human Resource Management Advisory Committee shall not contain any recommendation on the form of punishment to be inflicted on the accused officer but should contain:
 - a) A statement on whether the charges against the officer have been proved.
 - b) evidence collected by the team, including any statements by witnesses;
 - c) analysis of the evidence and statements; and
 - d) Details on any matter that may affect the gravity of the case if any.
- vi. Where further investigations are required as provided for in the regulations, such investigations shall be conducted in accordance with the process in (a) to (f) above.

COMMITTEE MEMBERS

Main Committee members

1. Dr John Kinuthia - Chair
2. Dr Matilda Ongondi
3. Dr David Bukusi
4. Mr Mcafullo Ochieng
5. Mr Morris K Karaine
6. Mr Joachim Mbithi
7. Ms Rose Wafubwa
8. Mr Fleming Lumumba
9. Dr Irene Weru
10. Ms Jane Akunda
11. Ms Judy Murithi
12. Mr Peter W Kamau

Secretariat from the KNH/UW HIV care Cascade Program

1. Dr. Anne Kaggiah
2. Dr. Nancy Mwangeli
3. Ms Maureen Mwendu