

THE MANDELA RHODES FOUNDATION

POLICY, GUIDELINES AND PROCEDURES

ANTI-DISCRIMINATION AND ANTI-HARASSMENT/ BULLYING POLICY

A Preamble

1. The Mandela Rhodes Foundation (**'the Foundation'**) is committed, in pursuing its vision and mission, to:
 - 1.1. Build a society based on human dignity, the achievement of equality of opportunity and the advancement of human rights and freedoms.
 - 1.2. Create and foster a work environment and Community of Scholars and leaders:
 - 1.2.1. in which everyone is treated with dignity and accorded equal worth, in which diversity is valued, respected and supported and their full potential is recognised;
 - 1.2.2. where there is an understanding of the nature and impact of hate speech, unfair discrimination, bullying and harassment, including sexual harassment, and that is free from such conduct.
2. To realise these commitments, the Foundation wishes to adopt a Policy, Guidelines and Procedures (**'the Policy'**).

B Specific Objects

3. The specific objects of the Policy are:
 - 3.1. To adopt a general prohibition against hate speech, unfair discrimination and harassment in all forms, including sexual harassment (**'the General Prohibitions'**).
 - 3.2. To give further guidance for standards of conduct required from those who participate in the Foundation's work, business and activities.
 - 3.3. To establish appropriate structures and processes to ensure that the commitments reflected in the preamble and the specific objectives of the Policy are realised.

- 3.4. To provide appropriate and fair procedures applicable to the internal resolution of complaints where appropriate.
- 3.5. To promote observance of the law of South Africa including the criminal law and the following laws :
 - 3.5.1. The Constitution of the Republic of South Africa and more particularly the Bill of Rights;
 - 3.5.2. The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000;
 - 3.5.3. The Labour Relations Act 66 of 1995;
 - 3.5.4. The Employment Equity Act 55 of 1998;
 - 3.5.5. The Protection from Harassment Act 17 of 2011.

C Application

4. The Policy applies to **'the Foundation community'**, which means anybody or person who participates in the work, business or activities of the Foundation and includes, without limitation:
 - 4.1. Scholars, including those in residence, Alumni, and applicants;
 - 4.2. Employees of the Foundation, including applicants for employment;
 - 4.3. The Board of Trustees and its members;
 - 4.4. Executive Sub-Committees of the Foundation;
 - 4.5. Any Selection Committee and its members;
 - 4.6. Any third party engaged or contracted by the Foundation in any capacity, including service providers.
5. The Policy applies to all members of the Foundation community in their conduct as members of the Foundation community and in connection with any business, work or activity associated with the Foundation wherever such conduct may take place.

6. No member of the Foundation community is precluded by the Policy from pursuing any remedy in any other appropriate forum or referring a matter to an external body.

D General prohibitions on hate speech, unfair discrimination and harassment

7. Hate speech, unfair discrimination, direct or indirect, and harassment is prohibited (**'the General Prohibitions'**).
8. Hate speech means verbal (oral and written), visual and symbolic expressions that advocate or promote hatred based on race, religion, ethnicity, colour, gender or sexual orientation and that intends to do harm, insult, offend, intimidate or threaten.
9. Discrimination (the preferential or favourable treatment to the disadvantage of another) on one or more of the following grounds is deemed to be unfair unless the person or body against whom a complaint is lodged establishes otherwise: race, gender, sex, pregnancy, marital status, ethnicity, social background, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, birth or other irrelevant distinction.
10. Discrimination is unfair if it is on any other ground where it causes or perpetuates systemic disadvantage or adversely affects a person's dignity in a manner that is comparable to discrimination on the grounds referred to in Clause 11.
11. The Policy does not preclude the Foundation from taking any steps designed to realise the mission and vision of the Foundation and to promote the achievement of equality or to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination.
12. Harassment means conduct that is unwelcome or unwanted or degrading and which has the purpose or effect of violating a person's dignity or creating an intimidating, demeaning, humiliating, hostile or offensive environment or otherwise adversely affects the recipient as a member of the Foundation Community. Sexual harassment means such conduct of a sexual nature.
13. For the avoidance of doubt, for purposes of the Policy, unfair discrimination includes harassment on any of the grounds referred to in Clause 11 above. Sexual harassment may constitute unfair discrimination on the grounds of sex and/or gender and/or sexual orientation.
14. When determining whether prohibited harassment, including sexual harassment, has taken place:

14.1. The test of a reasonable person shall be applied;

14.2. Regard shall be had to the Guidelines in Annexure A.

E Commitments by members of the Foundation community

15. Members of the Foundation community are expected to conduct themselves in a manner that observes the commitments and promotes the objectives of the Policy.

16. Individually and, where appropriate, collectively, members of the Foundation community should:

16.1. Treat all persons with courtesy, dignity and respect;

16.2. Refrain from conduct that falls within the general prohibitions;

16.3. Observe the Guidelines for expected standards of social conduct in Annexure B;

16.4. Be familiar with the Policy, participate in training and education sessions and take responsibility to ensure the Policy is implemented;

16.5. Refrain from victimising or retaliating against any person who in good faith lodges or pursues a grievance in terms of the Policy;

F Establishment of a Complaints Committee

17. The Executive Director unless the complaint has been brought against him or her, will establish a Complaints Committee when required with the overall responsibility to implement the Policy which shall be constituted of the following senior persons appointed by the Executive Director:

17.1. A Policy Coordinator;

17.2. An investigator who shall be the HR or legal person of suitable seniority;

17.3. A mediator or mediators;

17.4. A Chairperson who if not the Executive Director may be appointed by the Executive Director or by the Complaints Committee.

18. The Complaints Committee shall be constituted by the Executive Director (or alternate where the complaint is against the Executive Director) provided that in the case of complaints by or involving a Trustee, senior employee or a Scholar, be made up of two other persons designated by the Executive Director from amongst the following members:
 - 18.1. A suitable person nominated by the Board of Trustees and appointed by the Executive Director, who may be a member of the Board and who shall participate only in any procedure in which a complainant is a Trustee or the conduct of any Trustee or a senior employee is implicated.
 - 18.2. Alumni of a different cohort to the complainant or alleged perpetrator appointed by the Executive Director who shall participate only in any procedure in which a complainant or alleged perpetrator(s) is a Scholar or Alumni.
 - 18.3. Another independent suitable person or persons appointed by the Executive Director or alternate where the complaint is against the Executive Director.
19. In appointing the Complaints Committee, the Executive Director shall endeavour to ensure that its composition is diverse including from a race and gender perspective.

Duties and responsibilities of the Policy Coordinator

20. The Policy Coordinator has the following duties and responsibilities:
 - 20.1. Generally to coordinate, implement and monitor the Policy. In the event that the Policy Coordinator is the complainant or the person the claim has been lodged against, an alternate will be sought;
 - 20.2. To assist a complainant to resolve a complaint lodged under the informal procedure;
 - 20.3. To liaise with, assist and advise any person who may wish to report conduct under the Policy or who lodges and pursues a complaint;
 - 20.4. To provide information about the internal processes contemplated by the Policy, how they may unfold and any personal consequences;
 - 20.5. To provide information about alternative remedies available to an aggrieved person;

20.6. To refer complaints lodged to the investigator;

It should be noted that the complainant is encouraged to report an incident to any trusted person who is then able to bring it to the Policy Coordinator.

20.7. To assist the Chairperson of the Complaints Committee to constitute the Complaints Committee for each case and to make any necessary arrangements;

20.8. To ensure that information about the Policy is included in orientation education and training programmes on an ongoing basis;

20.9. To monitor the implementation of the Policy by acting as the Secretary to the Panel collating information including information about the outcome of informal, formal and third party complaints;

20.10. To report to the Executive Director on the outcome of complaints and make recommendations for the review of the Policy where appropriate.

20.11. Any other duty or responsibility provided for in the Policy.

21. The Policy Coordinator shall remain impartial as regards the merits of any matter.

Duties and responsibilities of the Investigator

22. The duties and responsibilities of the Investigator arise when a complaint is lodged and the Policy Coordinator refers it to the Investigator, and are:

22.1. To investigate complaints;

22.2. To prepare a report and make recommendations;

22.3. To investigate any complaint lodged against a third party where the alleged perpetrator(s) is a provider of goods or services to the Foundation and to report on the investigation to the Executive Director. It must be noted that there are practical and legal limitations to investigating third parties.

23. The Investigator shall remain impartial as regards the merits of any matter and shall not make any findings.

Duties, responsibilities and powers of the Chairperson and a Complaints Committee

24. A Complaints Committee shall have the duty, responsibility and power to deal with complaints referred to it under the formal procedure and more particularly:
 - 24.1. To consider a complaint, including through reviewing the investigation report, requiring further investigation as it may deem necessary, conducting interviews of persons involved, etc;
 - 24.2. Where appropriate, to attempt to resolve a complaint by agreement;
 - 24.3. To make findings;
 - 24.4. To make recommendations for appropriate redress or sanction to the appropriate person or body, including the Board of Trustees, the Executive Director or any other person vested with authority to take action having regard to the nature of the complaint, the findings and the recommendations.
 - 24.5. To make recommendations about the maintenance of confidentiality and any disclosure relating to a complaint.
25. The Executive Director shall have the following additional duties and responsibilities:
 - 25.1. To constitute an appropriate Complaints Committee to deal with any formal complaint;
 - 25.2. To liaise with the appropriate person or body in respect of findings and recommendations made by a Complaints Committee;
 - 25.3. To report to the Policy Coordinator on the outcome of a formal complaint.

G Principles of Procedure

26. The Foundation commits itself to dealing with reported conduct and complaints in terms of the Policy in a sensitive, fair, efficient and effective way and with due expedition.
27. Any person against whom a complaint is lodged shall be treated fairly and to that end shall be informed of the nature of the allegations made and afforded a fair opportunity to respond thereto during the process of any investigation and before any findings or recommendations affecting the person are made.

28. The Foundation recognises that the duty to act fairly includes fairness to any person reporting conduct, lodging a complaint, an alleged perpetrator or perpetrators and the Foundation.
29. Confidentiality shall be strictly observed and maintained by all parties throughout any reporting, investigative and complaints procedure save to the extent necessary, effectively and fairly to resolve the matter in accordance with the Policy.
30. Disclosures relating to any report or complaint shall only be made if all affected parties consent to any disclosure or where disclosure is necessary to secure effective redress or sanction or to prevent the recurrence of any conduct. Where the conduct of a senior employee or a member of the Board of Trustees is implicated, a determination of whether disclosure is necessary for these purposes shall be made by the Board of Trustees and otherwise by the Executive Director.
31. All parties are expected to pursue and resolve complaints with due expedition.
32. Where a matter is referred to an external body, the Executive Director or the Complaints Committee may, where appropriate, suspend or terminate an internal procedure.

H Reporting conduct and related duties of the Policy Coordinator

Reporting conduct

33. The following members of the Foundation community have a right to report conduct that may constitute a breach of the General Prohibitions:
 - 33.1. Any member who is personally affected by the conduct of another member or members of the Foundation community.
 - 33.2. Any member who is not personally affected but who believes that there has been or there is ongoing such conduct based on direct or otherwise reliable information.
34. Members of the Foundation community are encouraged to report any other conduct that may constitute a breach of the Policy.
35. Conduct should only be reported where the member believes in good faith that there has been a breach of the Policy.
36. Conduct should be reported to the Policy Coordinator or any trusted person either verbally or in writing. [INSERT CONTACT DETAILS]

37. Conduct should be reported as soon as is reasonably possible in the circumstances and without undue delay, taking into account the nature of the conduct, its sensitivity, that the complainant may fear reprisals and the relative positions of the complainant(s) and the alleged perpetrator(s).
38. A member of the Foundation community may request another person such as a friend or colleague to report conduct on his or her behalf provided that such person complies with the principle of confidentiality in Clauses 31 and 32 above.

Duties of the Policy Coordinator on receipt of a report

39. Upon receipt of a report, the Policy Coordinator will provide the person reporting the conduct with information and advice, which shall include information and advice:
 - 39.1 About the existence of the informal, formal and third party procedures and an explanation of what each entails and that lodging a complaint and seeking a resolution internally through the informal or formal procedure will not prejudice their rights to seek legal redress, etc. Where there is indication of a serious crime/offence having been committed e.g. rape, the Policy Coordinator should be under a duty to advise that the matter be reported to the police and some advice on the effect of a delay in reporting on the collection of evidence, etc.
 - 39.2 That when the informal procedure is followed an Investigator will not make any findings.
 - 39.3 That a complainant may choose to follow an informal or formal procedure but that the Executive Director may choose to follow a formal procedure even if a complainant does not wish to do so.
 - 39.4 The Policy Coordinator will do everything in his/her power to ensure that a complainant in good faith will not lose face in any adverse consequences if he or she chooses not to lodge a complaint.
 - 39.5 About the nature and implications of the Principles of Procedure.
 - 39.6 That a person reporting conduct is only expected to take a decision whether to lodge a complaint after s/he has had a reasonable opportunity to consider the information and any advice provided by the Policy Coordinator.
 - 39.7 That the person may obtain legal representation.

39.8 That the Policy Coordinator is available to render assistance and support during the complaints process including assistance in obtaining counselling.

I Informal procedure

40. When a person chooses to lodge a complaint under the informal procedure, the complaint shall be deemed to be lodged when the person informs the Policy Coordinator in writing that a complaint will be pursued and that s/he has chosen the informal procedure. It shall not be necessary for a complainant to provide details of the complaint in writing.
41. The Policy Coordinator will promptly refer the complaint to the Investigator who shall convene a private meeting with the complainant.
42. The Investigator must assess whether the matter should be dealt with under the formal procedure and if so, the Investigator shall promptly inform the Policy Coordinator and report the matter to the Chairperson of the Complaints Panel.
43. Where a complainant requests that his or her identity be kept confidential, the Investigator should only pursue an investigation if the complaint can be resolved in a manner that is fair to the alleged perpetrator(s) without disclosing the complainant's identity. If this is not possible then this must be formally communicated to the complainant i.e. that the investigation will not be pursued and the reasons.

The Investigator shall:

- 43.1. Gather sufficient information about the alleged conduct from the complainant;
- 43.2. Subject to Clause 44, inform the alleged perpetrator(s) of the complaint and afford them a full opportunity to respond to the allegations;
- 43.3. Establish whether the alleged perpetrator(s) consents to the informal procedure and if not to assess, in consultation with the complainant, whether the informal procedure should be terminated;
- 43.4. Interview or gather information from any other person;
- 43.5. Explore with the parties whether they wish to pursue mediation;
- 43.6. Take steps to assist the parties to resolve the complaint which may include:

- 43.6.1. Requesting or offering an apology;
 - 43.6.2. Requesting a mediator to facilitate the resolution of the complaint;
 - 43.6.3. The complainant or another appropriate person explaining to the alleged perpetrator(s) why the conduct is regarded as harmful, for example that it is not welcome, makes the complainant uncomfortable and how it offends or harms the complainant;
 - 43.6.4. Recommending to the Policy Coordinator that the Foundation pursue monitoring, education and/or training measures designed to promote awareness about the conduct in issue.
 - 43.6.5. Any other suitable redress of an informal nature.
44. Any of the parties involved – alleged victim, alleged perpetrator or the person conducting the informal procedure may request that the matter be referred to the formal procedure.

J Formal procedure

45. A formal procedure shall be deemed to be lodged when:
- 45.1. A complainant chooses to follow the formal procedure, either with or without first following an informal procedure, and lodges a formal complaint, or
 - 45.2. The Investigator reports a matter to the Chairperson of the Complaints Panel.
46. A complainant must complete a Form of Complaint with the Policy Coordinator who shall promptly refer the complaint to the Chairperson of the Complaints Panel.
47. A complainant or an Investigator should provide sufficient information to enable the Chairperson/Executive Director to ascertain the nature and extent of the alleged conduct, when and where it took place and who is allegedly responsible.
48. On receipt of a report, the Chairperson/Executive Director shall, with the assistance of the Policy Coordinator, convene a Complaints Committee to perform the functions referred to in Clause 25.
49. Subject to the Principles of Procedure in Section G above, the Chairperson:

- 49.1. Shall determine the procedure to be followed by the Complaints Committee which shall be fair to all parties.
 - 49.2. May adopt a procedure that is inquisitorial in nature and will not be bound by the terms of a complaint or report of an investigator.
 - 49.3. May request the Investigator to assist the Complaints Committee with any aspect of its investigation.
 - 49.4. Shall determine whether information of any sort may be received by the committee or should be excluded from its consideration.
 - 49.5. Shall permit any complainant, witness or alleged perpetrator to have any person accompany them for moral support and to obtain legal representation at their own cost.
 - 49.6. In performing the above functions, shall consider the views of the other members of the Complaints Committee.
50. After considering the complaint and any information that comes to its attention and relevant submissions, the Complaints Committee shall:
- 50.1. Make a finding about whether there has been a breach of the Policy and if so in what respects;
 - 50.2. Make any recommendation for appropriate redress and / or sanction that it deems fit to the appropriate body or person, which may include, depending on the circumstances, the Board of Trustees or the Executive Director; and
 - 50.3. Make a recommendation to the Board of Trustees or the Executive Director, as appropriate, regarding the maintenance of confidentiality or the need for any disclosure.
51. Any recommendation for appropriate redress and / or sanction shall be proportionate to the seriousness of the conduct and may, without limitation include:
- 51.1. Public or private apology;
 - 51.2. A warning or official reprimand;

- 51.3. In respect of an employee, recommendation of suspension, dismissal or other sanction permitted by law;
- 51.4. In respect of a Scholar recommendation of suspension or expulsion from the Foundation, loss of scholarship funding and/or exclusion from any activities of the Foundation on an ongoing or temporary basis;
- 51.5. In respect of an Alumni, suspension or permanent loss of any privileges associated with the Foundation and/or exclusion from any activities of the Foundation on an ongoing or temporary basis;
- 51.6. In respect of a Committee member, a recommendation that a discussion be held with the member regarding his or her ongoing involvement or that the Committee member be removed from their position;
- 51.7. In respect of a Trustee, a recommendation that a discussion be held with the Trustee regarding his or her ongoing involvement or that removal proceedings be instituted by the Board of Trustees or that further enquiries be initiated.
- 51.8. In respect of a third party, a recommendation that a discussion be held with the third party regarding subscribing to the Foundation's Code of Conduct and their ongoing involvement or that termination of their contract be considered.
- 51.9. A recommendation that the Foundation change its policies and procedures.
- 51.10. A recommendation relating to monitoring, training or education.
- 52. The Complaints Committee shall advise a complainant and a perpetrator in writing of the outcome of a formal complaint and its reasons.
- 53. The Complaints Committee shall provide the record of its proceedings to the Policy Coordinator.

K Reports against Trustees

- 54. Where a complaint lodged implicates the conduct of a Trustee, the Policy Coordinator shall refer the complaint to the Executive Director who:
 - 54.1. Shall perform the functions of the Investigator in respect of the informal procedure;

54.2. May perform the functions of the Chairperson of the Complaints Committee in respect of the formal procedure or may, where appropriate, either refer the matter to the Chairperson for resolution in the ordinary course or, through the Chairperson, request the assistance of any Trustee on the Complaints Committee in resolving the complaint.

L Reports against the Executive Director

55. Where a complaint lodged implicates the conduct of the Executive Director, the Policy Coordinator shall refer the complaint to the Chair of the Board of Trustees who:

55.1. Shall appoint a Trustee or an external party to perform the functions of the Investigator in respect of the informal procedure;

55.2. May perform the functions of the Chairperson of the Complaints Committee in respect of the formal procedure or may, where appropriate, either refer the matter to the Chairperson for resolution in the ordinary course or, through the Chairperson, request the assistance of any Trustee on the Complaints Committee in resolving the complaint.

M Procedure in respect of complaints against third parties

56. The Foundation recognises that its jurisdiction in respect of third party complaints is limited but that there are circumstances in which it will be appropriate for the Foundation to take measures where a third party breaches the Policy.

57. A member of the Foundation community, who in good faith believes that a third party member of the Foundation community may have breached the Policy:

57.1. Is expected to report conduct that may constitute a breach of the General Prohibitions;

57.2. Is encouraged to report any other conduct that may be in breach of the Policy.

58. Reports should be made to the Policy Coordinator and may be made verbally or in writing.

59. On receipt of a report, the Policy Coordinator shall refer the matter to:

59.1. The Investigator where the report relates to a third party who provides goods or services to the Foundation.

59.2. The Executive Director in any other case.

60. Where a matter is referred to the Investigator, the Investigator shall investigate the matter and report to the Executive Director who shall decide whether any further steps should be taken.
61. Where a matter is referred to the Executive Director, the Executive Director will make any enquiries that he or she deems fit and thereafter decide whether any further steps should be taken. In investigating or seeking to resolve the matter, the Executive Director may request the assistance of the Investigator or through the Chairperson, any member of the Complaints Committee.
62. The Principles of Procedure in Section G above shall be observed in any matter concerning the conduct of a third party.

N Special measures

63. The Foundation recognises that in certain cases it will be necessary to take special measures to assist a victim; for example, a victim may require trauma counselling or an employee may require special leave.
64. The Foundation will take steps reasonably to accommodate any special measures recommended by the Policy Coordinator, the Investigator, the Chairperson, the Complaints Committee or the Executive Director, which may, in an appropriate case, entail giving consideration to assisting with the costs associated with any trauma counselling that may be required.

M False complaints, duty to assist and honour confidentiality

65. The following persons may be regarded as being in breach of the Policy and subject to a disciplinary enquiry by the Foundation:
 - 65.1. Any person who lodges a false complaint against a person with the intention to cause that person harm or to damage their reputation.
 - 65.2. Any person who breaches the confidentiality requirements of the Policy.
 - 65.3. Any person who knowingly provides false information to or intentionally misleads the Investigator or Complaints Committee.

ANNEXURE A

GUIDELINES FOR DETERMINING IF HARASSMENT HAS TAKEN PLACE

1. General considerations

- 1.1. Harassment is a complex matter that takes different forms.
- 1.2. The test to be applied is that of a reasonable person. The test includes a consideration of both subjective and objective elements. The Foundation recognises that unless the perspective of a victim is prioritised, a complaints process can lead to perpetuation of socially entrenched stereotypes. On the other hand a purely subjective assessment can give undue priority to a victim's perspective and fail to take sufficient regard of the perspective of an alleged perpetrator. The Foundation recognises that behaviour seen as inoffensive to one person might reasonably be offensive and intimidating to another and that some behaviour may reasonably be experienced as offensive but may be unintentional or informed by a lack of understanding on the part of an alleged perpetrator about the impact of the conduct.

2. Sexual harassment

2.1. Unwelcome conduct

- 2.1.1. There are many factors that may be relevant to determining whether there has been unwelcome conduct.
 - 2.1.1.1. A person may indicate that sexual conduct is unwelcome in different ways including non-verbal conduct such as walking away or not responding to the alleged perpetrator.
 - 2.1.1.2. Previous consensual participation in sexual conduct does not necessarily mean that the conduct continues to be welcome.
 - 2.1.1.3. A single incident of unwelcome sexual conduct may constitute sexual harassment.
 - 2.1.1.4. Where a complainant has difficulty indicating to the alleged perpetrator that the conduct is unwelcome where there has been an explicit statement by the alleged victim to the alleged perpetrator that the conduct is unwelcome unless contradicted

by subsequent explicit or implicit statements or behavior and the standard or 'proving' a subsequent implicit contradiction shall be higher, such complainant may seek the assistance and intervention of another person.

2.2. Factors for assessing the nature and extent of sexual harassment

2.2.1. The conduct will be of a sexual nature but may include physical, verbal or non-verbal conduct.

2.2.2. Physical conduct of a sexual nature includes all unwelcome physical contact ranging from touching to sexual assault and rape, fondling or touching breasts, pinching of buttocks, sexual patting, and strip search in the presence of the opposite sex. Physical forms of harassment also include violation of someone's personal space (eg shoving, pushing).

2.2.3. Verbal conduct includes unwelcome innuendos, suggestions, hints, sexual advances, comments with sexual overtones, sex-related jokes or insults, comments, especially graphic comments, about a person's body made in their presence or to them, inappropriate enquiries about a person's sex life, whistling of a sexual nature and the sending by electronic means or otherwise of sexually explicit text.

2.2.4. Non-verbal conduct includes unwelcome gestures, indecent exposure and the display or sending by electronic means or otherwise of sexually explicit pictures or objects.

2.3. Sexual harassment may include but is not limited to victimisation, quid pro quo harassment and sexual favouritism.

2.3.1. Victimisation occurs where a person is victimised or intimidated for failing to submit to sexual advances.

2.3.2. Quid pro quo harassment occurs where a person who is in a position to assert power in respect of another or influence their circumstances coerces or attempts to coerce or persuade the victim to surrender to sexual advances.

2.3.3. In context of the employer/employee relationship quid pro quo harassment occurs where a person such as an employer, supervisor, member of management, or co-employee, influences or attempts to

influence an employee's employment circumstances (for example engagement, promotion, training, discipline, dismissal, salary increments or other benefits) by coercing or attempting to coerce or persuade an employee to surrender to sexual advances.

2.3.4. Favouritism includes where a person in authority rewards only those who respond to his or her sexual advances.

2.4. Distinguishing between sexual attention and sexual harassment

2.4.1. It is important to distinguish between sexual attention and sexual harassment so as to avoid inappropriate behaviours that might be unintended, or perceived as sexual behavior classified as offensive/inappropriate.

2.4.2. Sexual attention becomes sexual harassment if:

2.4.2.1. The behaviour is persistent (although a single incident can constitute harassment).

2.4.2.2. The recipient has made it clear that the behaviour is considered offensive.

2.4.2.3. The perpetrator should reasonably have known that that behaviour was offensive.

2.4.3. Certain behaviour does not constitute sexual harassment such as:

2.4.3.1. An occasional compliment although intention shall be relevant.

2.4.3.2. Flirtatious banter when it is mutually acceptable.

2.4.3.3. Forms of greetings that are deemed acceptable amongst the behaviours and cultures of those forming part of the Foundation community subject to exception where someone has communicated that it makes them uncomfortable.

2.5. **Some other forms of harassment**

2.5.1. Racial harassment: Examples include racially motivated actions and behaviours such as inappropriate questioning about one's racial or ethnic

origin, offensive graffiti and intimidating behavior including threatening or offensive gestures and stereotyping.

- 2.5.2. Sexual orientation: Harassment of this kind includes homophobic remarks or jokes about a person's sexual/gender orientation, threats to disclose sexuality and intimate questions about sexual activity.
- 2.5.3. Harassment of disabled people: Harassment that undermines the dignity of people with disabilities includes discussion of the effects of a disability on an individual's personal life, uninvited touching or staring and inappropriate questioning about the impact of someone's disability.
- 2.5.4. Harassment on grounds of age: This type of harassment may include derogatory age-related remarks and unjustified dismissal of or suggestions on the grounds of the age of the person.
- 2.5.5. Personal harassment: Examples include lack of tolerance of personal difference, mocking or making innuendoes about personal circumstances or appearance.
- 2.5.6. Bullying: Bullying is a form of psychological and/or physical harassment which includes unmerited criticism, isolation, gossip, changes to circumstances (such as Foundation duties) that are intended to be detrimental, responsibilities delegated but without authority, essential information withheld, or behaviour that is intimidating or demeaning.
- 2.5.7. Stalking: This includes for example harassment via social media or any communication form as well as taking personal information about someone, for example contact details without permission and using it to contact them. Other examples may include leaving repeated or alarming messages, following people into their rooms without permission.

ANNEXURE B

GUIDELINES OF EXPECTED STANDARDS OF SOCIAL CONDUCT

1. General considerations

- 1.1. Members of the Foundation community are, in addition to observing the General Prohibitions, expected to conduct themselves in a manner that enables the realisation of the commitments underlying the Policy.
- 1.2. These Guidelines are intended to guide members of the Foundation community on what standards of conduct are expected of them in social circumstances.
- 1.3. The Foundation recognises that the Foundation community constitutes an environment in which professional relationships are nurtured and all members are expected to conduct themselves accordingly.
- 1.4. The Foundation encourages its members to develop mentoring relationships in achieving its mission and vision.
- 1.5. The Foundation recognises that its activities include activities of a social nature through which Scholars will interact with other members of the Foundation community and develop professional relationships.
- 1.6. The Foundation recognises that through membership of the Foundation community, significant personal relationships will develop within the Scholar community and among Scholars.

2. Duties of Foundation employees, Trustees, Committee members and certain third parties

- 2.1. Foundation employees, Trustees, Committee members, and third parties who participate in the work, business or activities of the Foundation are generally expected not to socialise with Scholars save to the extent that social activities are arranged by the Foundation.
- 2.2. Save to the extent necessary to manage or avoid any actual or potential conflict of interest, this does not preclude members of the Foundation from honouring

existing personal relationships or developing personal relationships once a Scholar has completed his or her qualification.

3. Duties of Scholars

- 3.1. Applicants for Scholarships and existing Scholars are generally not expected to socialise with Foundation employees, Trustees, Committee members, and third parties who participate in the work, business or activities of the Foundation save to the extent that social activities are arranged by the Foundation.
- 3.2. Save to the extent necessary to manage or avoid any actual or potential conflict of interest, this does not preclude applicants for Scholarships and existing Scholars from honouring existing personal relationships.
- 3.3. The Foundation recognises that Scholars may develop personal relationships with members of the Foundation once a Scholar has completed his or her qualification and is an Alumni member of the Foundation community.