



THE UNIVERSITY OF NAIROBI SEXUAL HARASSMENT PREVENTION AND PROCEDURE POLICY

OCTOBER 2022

Towards creating a safe and conducive work, learning and research environment for all.

ACKNOWLEDGEMENTS

The University of Nairobi wishes to acknowledge the support given by Martha Farrell Foundation who made it possible for the Committee members to develop the Policy.

The participation and contributions of the following committee members is also appreciated Dr. Scholastica Omondi, the Principal, Investigator, Dr. Paul Ogendi, Chairman, Mr. Collins Omondi, Mrs. Teresia Okumu, Mr. Eddy Mwendwa, Ms. Georgina Githua and Ms. Musambayi K. Margaret.

To our Students, Academic and Non-Academic staff who participated in the exercise by providing relevant data that has resulted in the Policy, you are highly appreciated.

FOREWARD

Sexual harassment is a global concern for many Institutions of higher learning in the world and the University of Nairobi is no exception. Whereas before men have mostly been the perpetrators, the emerging trends of women also being perpetrators is changing the narrative.

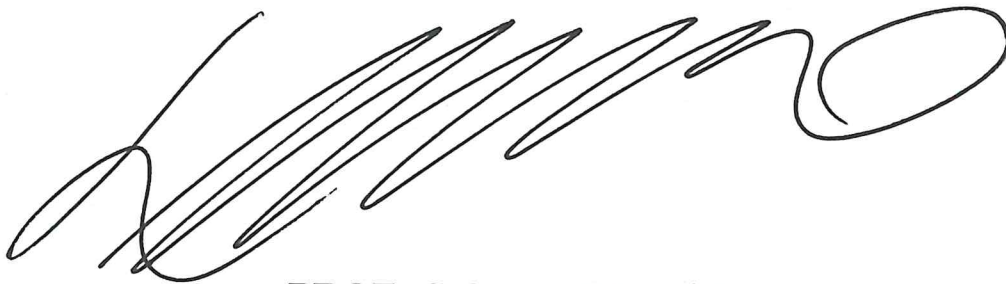
As the premier and leading public university in the country, the University of Nairobi endeavors to conform to the constitution of Kenya 2010, Article 27(1) which provides for equal treatment of everyone and prohibits discrimination on any ground. Therefore, nobody should be subjected to sexual harassment or to discriminative treatment on sexual grounds. Article (28) which upholds human dignity and therefore protects everyone from conduct that takes away one's dignity such as sexual harassment.

The University of Nairobi has now developed a sexual harassment, prevention and procedure policy whose objectives are: to provide a safe and secure environment for all stakeholders, to promote a conducive learning and teaching environment that enables everyone to realize their full potential and to safeguard the integrity of the University as a world-class university committed to scholarly excellence.

The policy provides for the following areas: legal framework; definitions, prevention, reporting investigation, evidence, hearing, punishment, compensation, referral, and monitoring, evaluation, and review.

This policy strongly focuses on the prevention of sexual harassment within the University environment.

I believe the University Community will support the implementation of the policy in order to make our institution a safe, conducive work and learning environment.

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke.

PROF. S.G.KIAMA, PhD
VICE-CHANCELLOR

TABLE OF CONTENTS

Acknowledgement.....	2
Forward.....	3
Table of Contents.....	4
Acronyms and Abbreviations.....	6
1.0. INTRODUCTION.....	7
1.1. Our Vision Statement.....	8
1.2. Our mission Statement.....	8
2.0. JUSTIFICATION.....	8
2.1. Scope.....	8
2.2. Objectives.....	8
2.3. Our Core Values.....	8
3.0. LEGAL FRAMEWORK.....	9
3.1. Constitution of Kenya 2010.....	9
3.2. Sexual Offences Act, 2006.....	9
3.3. Employment Act, 2007.....	9
3.4. University of Nairobi Gender Policy June 2008.....	9
3.5. University of Nairobi Code of Conduct and Ethics ISO 9001: 2008.....	10
4.0. POLICY STATEMENT.....	11
5.0. DEFINITION OF SEXUAL HARASSMENT POLICY.....	11
6.0. PREVENTION AND AWARENESS CREATION.....	12
6.1. Individual (Students, Staff and Stakeholders).....	12
6.2. University Management.....	12
7.0. REPORTING AND HEARING.....	13
7.1. Functions of the Committee.....	14
7.2. Reporting of Sexual Harassment.....	14
7.3. Documentation of Sexual Harassment.....	14
7.4. Evidence of Sexual Harassment.....	15
7.5. Failure to Report Sexual Harassment.....	15
7.6. Investigation of Sexual Harassment.....	15
7.7. Hearing of Sexual Harassment.....	16
7.8. False and malicious cases reporting.....	16
7.9. Submission of final report to the Vice-Chancellor.....	16
7.10. Report to police by the victim.....	17

8.0. PUNISHMENT AND COMPENSATION.....	17
9.0. MONITORING, EVALUATION AND REVIEW.....	17
Appendix 1 Sexual Harassment Complaint Form.....	18
Appendix II Evidence Collection Sheet.....	20
Appendix III Witness Statement Form.....	22
Appendix IV Confidential Investigative report.....	23

ACRONYMNS AND ABBREVIATIONS

VC	-	Vice-Chancellor
UASU	-	University Academic Staff Union
UNSA	-	University of Nairobi Student Association
CEDAW	-	Convention on the Elimination of All Forms of Discrimination Against Women

INTRODUCTION

Sexual harassment is a global concern for many universities in the world and The University of Nairobi is no exception. There are different types of sexual harassment. Whereas men are mostly perpetrators, women are often the victims. However, there are increasingly cases reported where women are the perpetrators and men are the victims. The harassment is sometimes based on the power relationship¹ between the perpetrator(s) and the victim(s). The harassment can be verbal, by action or online like emails, social media amongst others. It can also be express or implied.

Further, sexual harassment at the universities can take the form as categorized below:

A) Students

- Students-students
- Students-Academic staff
- Students-Administrative staff
- Students-Support staff
- Student – non-staff
- Non-staff-student

B) Academic Staff

- Senior Academic staff- Junior Academic staff
- Academic staff - Academic staff
- Academic staff- Administrative staff
- Academic staff- students
- University staff-non-university staff

C) Administrative Staff

- Administrative staff- Students
- Administrative staff-Academic staff
- Administrative staff- Administrative staff
- Administrative staff- Support staff

D) Support Staff

- Support staff- Students
- Support Staff- Support staff

¹ The definition of power is broad to include economic, psychological, emotional and sexual power. Ability to manipulate, influence, blackmail, coerce, or take advantage of someone or make them do something that they would otherwise not freely do.

The above categories are not exhaustive. Other stakeholders within the University environment² are also subjected to this policy.

This policy strongly focuses on the prevention of sexual harassment within the University environment. The policy provides for the following areas: legal framework; definitions, prevention, reporting investigation, evidence, hearing, punishment, compensation, referral, and monitoring, evaluation, and review.

1.1. Our Vision Statement

A world-class university committed to scholarly excellence

1.2. Our Mission

To provide quality university education and training and to embody the Aspirations of the Kenyan people and the global community through Creation, preservation, integration, transmission and utilization of Knowledge

2.0 JUSTIFICATION

The policy seeks to provide a clear definition of sexual harassment so as to ensure that everyone understands what it is and the procedures for addressing incidents of reported cases and ultimately prevent its occurrence at the University of Nairobi.

2.1. Scope

The Policy applies to all members of staff, students and stakeholders of the University of Nairobi in all our campuses.

2.2. Objectives

The objectives of the policy are: -

- To provide a safe and secure environment to all stakeholders;
- To promote a conducive learning and teaching environment that enables everyone to realize their full potential; and to safeguard the integrity of the University as a World-Class University Committed to scholarly excellence.

2.3. Core Values

- Freedom of thought and expression
- Excellence
- Care

² University environment include campus, hotels or any other space that the University conducts its official functions and activities.

- Good Governance
- Innovativeness and Creativity
- Partnership and Teamwork

3.0 LEGAL FRAMEWORK

The following are the laws and policy that prohibit sexual harassment in the University of Nairobi.

3.1 Constitution, 2010

Article 27(1) provides for equal treatment of everyone and prohibits discrimination on any ground. Therefore, nobody should be subjected to sexual harassment or to discriminative treatment on sexual grounds.

Article 28 upholds human dignity and therefore protects everyone from conduct that takes away one's dignity such as sexual harassment.

International instruments forms part of Kenyan laws through Article 2(6) of the Kenyan Constitution. Article 7 of the Convention on the Elimination of Discrimination against Women (CEDAW) and Article 2 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) prevents discrimination of all forms against women. Any discriminative behavior such as sexual harassment is therefore outlawed.

3.2 Sexual Offences Act, 2006

The Sexual Offences Act, 2006 is the most comprehensive legislation in Kenya that defines and provides for procedure and punishment in matters of sexual harassment.

3.3 Employment Act, 2007

Section 6(2) of the Employment Act requires that all organizations with more than 20 employees to put in place a policy to deal with sexual harassment at the workplace. Under subsection 4, the employer is obligated to ensure that all employees are aware about the policy.

3.4 University of Nairobi Gender Policy (June 2008)

The University of Nairobi Gender Policy defines sexual harassment as follows: Unwelcome acts of a sexual nature that cause discomfort to the targeted person. These include words, persistent request for sexual favors, gestures,

touch, suggestions, coerced sexual intercourse and rape. The policy classifies sexual harassment as a gender issue. Some of the measures proposed to eliminate sexual harassment and all forms of gender-based violence include, the University will: i) Develop and enforce University rules aimed at protecting students and staff from sexual harassment. These will cover matters including but not limited to student-staff interactions, manner of dressing, organization of dining and library facilities, use of gender sensitive language. ii) Establish sexual harassment centers and/or counselling services to promptly and effectively respond to and deal with sexual harassment cases. iii) Ensure that all reports or records on allegations or complaints of sexual harassment are treated with confidentiality. iv) Strictly enforce rules designed to protect students from harassment or violence in the University halls of residence, especially the prohibition of cohabitation and regulations pertaining to visiting hours. v) Treat rape and other sexual offences as indicated in the Sexual Offences Act as crimes that will lead to automatic expulsion or dismissal. In such cases the University will report the offence to the police.

The present University of Nairobi Sexual Harassment Policy provides more elaborate details on the above measures.

3.5. University Of Nairobi Code of Conduct and Ethics ISO 9001:2008

The University Of Nairobi Code Of Conduct condemns the vice of sexual harassment and abuse which states as follows:

- a) A member of staff shall not “sexually harass” a fellow member of staff, student or member of public. Sexual harassment in this context shall include any of the following, if the person doing it knows it is unwelcome: -
 - (i) Making advances or exerting pressure for sexual activity or favor.
 - (ii) Making intentional or careless physical contact/touching that is sexual in nature.
 - (iii) Making gesture, noises, jokes or comments, including innuendos, regarding another person’s sexuality.
- b) A member of staff shall not maintain an improper sexual/emotional relationship with a fellow member of staff or a student where one of the parties is taking advantage of the other or where boundaries are being violated.
- c) A member of staff shall not victimize another member of staff or student as a result of any form of sexual harassment.

4.0 POLICY STATEMENT

The University of Nairobi is a sexual harassment free work and study institution.

5.0 DEFINITION OF SEXUAL HARASSMENT

Human beings ordinarily are social beings and they must relate in various aspects including sexuality. Healthy and respectful relationships are encouraged and quite often lead to unions that form the basic unit of society. However, there are unwelcome sexual advances which can only create conflict in the society. Sexual harassment therefore refers to unwelcome acts of a sexual nature that cause discomfort to the targeted person. These include words, persistent request for sexual favors, gestures, touch, suggestions, coerced sexual intercourse, rape, and stalking.³ Online sexual harassment which includes sexualized bullying, non-consensual sharing of intimate images or videos,

The conduct must be of a sexual nature which has the effect of or has the intention to violate one's dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment.

Sexual harassment could occur between persons of opposite, intersex, same sex or transgender. Sexual harassment can be physical, emotional, and psychological abuse.

Types of sexual harassment include but are not limited to: -

- Sexual favors or inappropriate summons and meetings in exchange for grades.
- Any unwelcome sexual communication either directly or indirectly including through online (social media) channels.

Any behavior that intrudes on a person's private space or body without their consent.

This policy is cognizant of societally acceptable cultural practices, and traditions by different communities that result into a healthy⁴ adult relationship.

³ Act of following and watching someone's every move in a manner that makes the person reasonably believe that he or she is in danger of being Sexually Harassed.

⁴ Healthy means it is good for both and not one of the parties.

6.0 PREVENTION AND AWARENESS CREATION

This policy focuses on prevention as the best way to deal with sexual harassment. Prevention shall be undertaken at two levels, namely, the individual level, and the University management level.

6.1 Individual (Students, Staff and Stakeholders)

- Everyone should know and understand the University sexual harassment policy especially new student(s) and new staff(s). Ignorance of the policy shall not be used as a defense during the hearing of a case on sexual harassment.
- Everyone is encouraged to attend all trainings and sensitizations programs offered by the University about the policy.
- Everyone should immediately report any acts of sexual harassment committed towards them or towards others and to fully cooperate in the event of any inquiry or investigation. Failure to report without a justifiable reason shall be construed to mean that the conduct or behavior was welcomed.

6.2 University Management

i) Education and Training

- It shall be the responsibility of the Dean of Students to educate and train all students about this policy. Special attention should be given to new students during orientation. The policy should be included in the student information handbook.
- It shall be the responsibility of the human resource office to undertake sensitization of all employees about this policy. Special attention should be given to new staff. A copy of this policy shall be attached to the employment letter of every staff.
- The Vice Chancellor shall ensure that individuals tasked with the implementation of this policy are trained and well equipped with the knowledge and skills to handle sexual harassment cases.
- In order to avoid sexual harassment incidences, the faculties may organize coaching, imitation of role models, mentorship, philosophic deliberation and counselling among other methods as preventive measures.

- There is need for culture change.

ii) Creating Awareness

- There shall be a week within the University calendar dedicated to creating awareness and carrying out programs on sexual harassment prevention within the University.
- Simplified versions of this policy shall be developed and availed on the website of the University to all students, staff and stakeholders.
- Summarized framed versions of the policy shall be put at all strategic locations of the University.
- Pocket-friendly versions shall be availed in all the offices. In addition, the message 'University of Nairobi has a zero tolerance policy against/on sexual harassment' should appear in every communication.
- This policy shall be made available in braille version.

iii) Safety and Security

- The University shall provide adequate lighting, surveillance cameras, and security personnel within the halls of residents and the university premises and offices.
- The University shall maintain a clean environment, clear spaces that might encourage sexual harassment
- The Director of ICT shall ensure that pornographic website(s), offensive explicit literature, posters, or other lewd materials are removed/censored online.
- The Vice Chancellor to ensure the installation of CCTV cameras and to consider the establishment open plan and transparent offices in future planning.

7.0 REPORTING AND HEARING

All incidences of sexual harassment shall be reported to the Office of the Vice Chancellor in the prescribed format (Appendix I).

The Vice Chancellor shall appoint a committee when need arises to deal with all reported cases of sexual harassment. It shall comprise of a chair and a representative from each of the faculties, University of Nairobi Students Association (UNSA), University Academic Staff Union (UASU), University Health

Service, Dean of Students, Security department. They must be men and women of high moral standards and integrity.

7.1. The functions of the committee

The committee shall carry out the following functions: -

- Receive reports on sexual harassment
- Carry out prompt investigation
- Conduct a fair hearing of the reported cases
- To determine sexual harassment cases conclusively within three months and make a report of the determination to the VC within a month
- Maintain objectivity, administrative fairness, impartiality, confidentiality and act in a manner that protects the dignity of all parties
- Maintain the integrity of the University of Nairobi

7.2. Reporting of sexual harassment

- A victim of sexual harassment or anybody who has evidence of suspected sexual harassment of a University of Nairobi student or staff has an obligation to report the matter to the Vice-Chancellor.
- The Vice-Chancellor shall then appoint a Committee to investigate and make recommendations on a case by case basis.
- A 24-hour call center shall be established for this purpose.
- An email account shall be created for the reporting of sexual harassment cases.
- Once a report is made, the suspect shall be informed of the report and where necessary measures shall be taken to protect the victim.

7.3. Documentation of sexual harassment report

- Such a report shall be recorded in the Sexual Harassment Occurrence Book which shall be maintained by the security office.
- The details of the person who makes the report and the details of the incident shall be documented. The report must be treated with utmost confidentiality to protect the whistle blowers and preserve the details of the report especially where the victim is unable to report.

- Where necessary, the details of the reporter may remain anonymous. The victim must at all times be fully identified.
- The report can be hand-written, typed or reported electronically through email, WhatsApp.

7.4. Evidence of sexual harassment

- Evidence of the incident must accompany the report. Such shall include photos, video recording, voice recording, footage, messages, bodily harm, forceful transaction, suspects behavior, witnesses, phone call recordings, doctors report, suspects expression, psychological harm to victim or any other form of admissible evidence.
- There shall be developed a tool to capture the evidence.
- The threshold evidence to be on a balance of probability.

7.5 Failure to report sexual harassment

- Where a Victim or the person who makes a report of sexual harassment requires special protection, the same shall immediately be organized by the committee.

7.6 Investigation of sexual harassment

- There is established a specially trained standing Sexual Harassment Investigation Unit composed of persons well versed with the subject matter of sexual harassment.
- Upon receiving a report of sexual harassment, the Unit shall commence investigations immediately and may summon anybody whom they believe is seized of any information that may be useful to the investigation. The investigations should be concluded within reasonable period unless there are circumstances which makes it impossible to conclude the investigations within the stated period. The Unit to use its discretion in such circumstances.
The investigation shall be conducted with utmost confidentiality.
- Where the Unit finds sufficient evidence to conduct a full hearing of the case, both the victim and the suspect shall be given at least 14 days' notice of the scheduled hearing date, place and time unless circumstances requires a longer period to accommodate the Victim's condition.
- Where necessary, the victim may receive counseling, spiritual, psychological and emotional support from the office of Dean of Students before, during and after the investigation and hearing.

7.7. Hearing of sexual harassment

- The committee shall regulate its proceedings
- It may where appropriate use technology to blur faces, distort voice of witnesses testifying before it.
- The hearing shall be concluded within a reasonable period.
- Unless otherwise objected to by the victim, the investigation and hearing process shall be conducted in private/camera
- This is an internal disciplinary procedure and no advocate/lawyer is permitted to represent either of the parties.
- Both the victim and suspect shall be accorded an opportunity to present their case and shall have the right to call any witnesses to support their case
- Unless otherwise objected to by the victim, the investigation and hearing process shall be conducted in private
- Both parties shall be interviewed separately. Where either of the parties requests for a face to face/ virtual meeting so as to confront the other party, the committee shall make a determination on the merits or demerits of the request.
- In cases of double reporting, the Committee shall decide on whether or not to be seized of the matter on a case by case basis.
- The Vice Chancellor shall ensure that both the victim(s) and the witness (es) to a sexual harassment case are protected where necessary.

7.8. False and malicious cases of reporting

Where the Committee makes a finding that the report was false and/or malicious, appropriate disciplinary measures shall be taken against the author of the report.

Similarly, where the Committee makes a finding that the witness (es) gave a false and/or malicious testimony, appropriate disciplinary measure(s) shall be taken against the witness (es).

7.9. Submission of the final report to the Vice Chancellor

The Committee shall submit its final report of its findings and recommendations to the Vice Chancellor for action.

7.10. Report to the Police by the victim

- Where the investigation by the committee reveals that the evidence of the sexual harassment amounts to an offence under the Sexual Offences Act, the Committee **SHALL** encourage the Victim to immediately report to the nearest police station.

8.0 PUNISHMENT AND COMPENSATION

Where the committee makes a finding that sexual harassment indeed occurred but the victim does not want to proceed to the criminal justice system, the committee after hearing shall recommend to the Vice Chancellor the appropriate action to be taken against the perpetrator. Such action may include but not limited to: -

- A warning letter or suspension for up to 12 months with or without pay (for employees).
- In appropriate cases and where the victim is amenable, the perpetrator may issue an apology to the victim and a commitment to the University not to repeat the same behavior.
- Expulsion from the University depending on the seriousness of the offence.
- Adequate compensation negotiated between the parties to be awarded by the Committee to redress the offence.
- Any other reasonable measures that the Committee may deem fit.

The above punishment may also apply where someone wrongfully accuses another of sexual harassment.

Where necessary and upon expert opinion, the perpetrator may be required to seek appropriate therapy and counseling services.

The disciplinary measures under the University disciplinary procedures and the code of conduct will apply where appropriate.

9.0 MONITORING, EVALUATION AND REVIEW

The Committee shall regularly analyze the data collected and issue an Annual Report on the status of sexual harassment at the University and also put measures in place on the monitoring and evaluation of the implementation of this policy.

The policy shall be reviewed after every five years or as need arises.

Appendix I

SEXUAL HARASSMENT COMPLAINT FORM

Case Ref No.....

It should be noted:

- a. That anyone who wishes to report a case of sexual harassment faced by themselves or another member of the University is at liberty to fill this form.
- b. That in filing the form one commits themselves to assist the University in the investigation and adjudication of the complaint.
- c. That the investigation process will involve interviewing the victim, suspect and witnesses (if any).
- d. That all members of the University community are encouraged to read and understand the policy to grasp the contents, know their rights, responsibilities and the procedures of reporting/investigating/adjudicating complaints.

Staff: Name	Payroll No:.....
Faculty & Department:.....	Designation:.....
Sex:.....	
Tel:.....	email:.....
Student: Name.....	Reg. no.
Faculty & Department.....	Year of study:.....
Tel:.....	email:.....
Visitor: Name.....	ID/PP No.....
Tel:.....	email:.....
.....	
Other Name.....	ID/PP No.....
Tel:.....	email:.....
Date of Incident.....	Time of incident

Person(s) you allege committed the sexual harassment	
Name	Position/Designation
Please describe the incident in detail, including your reaction	
Witnesses to the incident if any?	
Name	Designation/Position
Documents attached, if any?	

I certify that:

The above information is a true description of what transpired.

I shall fully participate and cooperate with the Unit charged with investigating the above complaint.

The University has the right to take disciplinary action against me should the complaint be proven to be malicious or false.

Name and Designation of Officer Receiving Report

Name

Designation

Signature of Complainant

Signature of Officer Receiving Report.....

Date.....Time.....

Tel:.....email:.....

Appendix II

EVIDENCE COLLECTION SHEET

Case Ref No.....

Date:

Collected by:

Incident Date.....Time:.....Place.....

Victim details

Name:..... ID/Passport No:.....

Designation:..... Payroll/Reg No:..... Sex:.....

Tel:.....email:.....

Accused details

Name:..... ID/Passport No.:.....

Designation:..... Payroll/Reg No:..... Sex:.....

Tel:.....email:.....

Narrative:

.....
.....
.....

Any tangible evidence:

.....

Forensic.....

Written:.....

Recordings:.....

Conversations/emails:.....

Any other.....

Chain of custody

Received from (Name and Signature):.....

By (Name and Signature):.....

Date:.....Time:..... Place:.....

Tel:.....email:.....

Received from:.....

By:.....

Date:.....Time:..... Place:.....

Tel:.....email:.....

Appendix III

WITNESS STATEMENT FORM

Case Ref No.....

Date:.....

Description of Incident:.....

.....
.....
.....
.....

Witness full name:.....

ID/Passport No.:.....

Tel:..... Email:.....

Designation:.....

Reg. no/payroll no:.....

Faculty/Department:.....

Iof

Witnessed the following (what follows is my point of view of facts as they occurred. Describe in detail events or facts clearly as you remember them including time, surroundings any physical description of any persons you saw or were involved).....

.....
.....
.....

I believe the facts stated in this witness statement are a true reflection of what transpired.

Witness signature:..... Date.....

Receiving officer Signature..... Date:.....

Appendix IV

CONFIDENTIAL INVESTIGATIVE REPORT

Faculty/Department.....
Allegation:.....
Name/Designation of Employee.....
Subject for investigation:.....

Name of Complainant:.....

Investigator(s)

Name.....

Designation.....

Faculty/Department.....

Contact

Tel:.....Email:.....

Name.....

Designation.....

Faculty/Department.....

Contact

Tel:.....Email:.....

Name.....

Designation.....

Faculty/Department.....

Contact

Tel:.....Email:.....

Background

- Describe how the situation was reported
- Actions taken before investigation
- History of the accused/student records

Executive Summary

- Findings/conclusions (list all allegations)

Name of Head of Investigative Unit.....

Signature.....

Date:.....

Tel:.....Email:.....