

Student Sexual Assault and Sexual Harassment Prevention and Response Procedure

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OVERVIEW

This procedure aligns with and supports the University's Student Sexual Assault and Sexual Harassment Policy. It applies to University of Adelaide Students who wish to make a Report of Sexual Assault or Sexual Harassment by current Students, staff members or titleholders with regard to University Related Conduct. It also identifies the Reporting options for Students and the responsibilities and actions the University may take.

PROCEDURE

1. Support for Students

The University is committed to providing accessible and non-discriminatory support services for Students who are affected by Sexual Assault and/or Sexual Harassment. Support available for Students includes:

- a) counselling through the University's counselling services or referral to other support services;
- b) assistance in making a Report;
- c) assistance through the process of an investigation or misconduct process;
- d) assistance in making an External Report to the police or other external agency; and
- e) Reasonable Measures in order to minimise the potential for harm to any person including, but not limited to:
 - i. class timetable changes;
 - ii. academic adjustments;
 - iii. placement reassignment; and
 - iv. temporary remote learning or working arrangements.

Members of the University's Counselling Support and Education and Welfare Officers (EWOs) at Student Care are Trained Responders who are able to assist Students with their immediate support needs and provide Students with confidential advice on the options available to them and support to action these.

2. Disclosures

A Disclosure can be made by any Student who experiences Sexual Assault or Sexual Harassment to access support services. If the person making the Disclosure wishes further action to be taken, they may elect to make a Report.

Staff members who receive a Disclosure from a Student will:

- a) refer the Complainant to Trained Responders at [Counselling Support](#) and [Student Care](#);
- b) inform the Complainant that staff are required to report Disclosures of Sexual Assault and Sexual Harassment to Student Affairs (or to [Security Services](#) if there is imminent danger) and ask permission from the Complainant to release their name and contact details;
- c) outline the options available to the Complainant to help them determine any next steps they may wish to take, including:
 - i. Report to the University using the [Safer Campus Community Online Report Form](#) or to [Security Services](#)
 - ii. External Report to the police or other external agency
 - iii. No immediate action
- d) ask again for permission from the Complainant to release their name and contact details to Student Affairs; and
- e) offer assistance in any other way as deemed appropriate in the circumstances, including referral to International Student Support if the Complainant is an International Student.

If the Complainant **gives permission** for the staff member to release their name and contact details to Student Affairs, the Complainant and staff member will make a Report together using the [Safer Campus Community Online Report Form](#) as soon as practicable.

If the Complainant **does not give permission** for the staff member to release their name and contact details to Student Affairs the staff member will complete a de-identified Recorded Disclosure Form and send the completed form to Student Affairs as soon as practicable.

Staff members are required to make a mandatory report to the **Child Abuse Report Line (CARL) on 13 14 78** in relation to Disclosures and Reports of Sexual Assault or Sexual Harassment which have occurred within South Australia where the Complainant is aged under 18.

The opportunities for the University to provide support may be limited if a Disclosure is made anonymously or without sufficient information. Where this applies, the University may still use the de-identified Recorded Disclosure Form for the purposes of the University's risk identification, assessment and prevention strategies.

3. Reports

A Report can be made by any Student who experiences Sexual Assault or Sexual Harassment to access support services and to initiate further action by the University.

3.1 Reports to the University

Students can make a Report of Sexual Assault or Sexual Harassment by using the [Safer Campus Community Online Report Form](#) or by contacting [Security Services](#). Students making a Report using the Safer Campus Community Online Report Form will be contacted within two business days and, in urgent circumstances, will be contacted immediately.

3.2 External Reports

Members of the University Community may make an External Report to the police or other external agency at any time and will be supported by the University if they wish to do so. No-one may prevent any person from reporting or referring a matter to the police or other external agency and no-one should seek to exert any pressure on any person to dissuade them from making an External Report.

4. Further Action – University Misconduct Processes

If the Alleged Offender is a Student, the Report will be provided to the Executive Officer of the Student Behaviour and Conduct Committee. If the Alleged Offender is a staff member or titleholder the Report will be provided to their Area Manager and Human Resources.

If an Alleged Offender holds more than one status (e.g. is a Student of the University and also a staff member of the University), the Report will be assessed and referred according to the relevant procedure. Support and Reasonable Measures will be made available to all parties to the report, as required for the duration of the process.

The University's internal processes are for the purpose of determining Misconduct and separate from any criminal proceedings or investigations conducted by the police or other external agency as a result of an External Report. Any internal process may cease whilst a police or external investigation is being undertaken.

4.1 Reports against Students

Where the Alleged Offender is a Student, the Report will be considered and may be progressed by the Student Behaviour and Conduct Committee pursuant to the [Student Behaviour and Conduct Procedure](#). The Committee may recommend referral of the matter to the Student Misconduct Tribunal for further action. If the Tribunal determines on the balance of probabilities that Misconduct has occurred it may apply one or more penalties in accordance with the [Student Misconduct Rules](#) and the [Student Misconduct Policy](#).

4.2 Reports against Staff and Titleholders

Reports referred to Human Resources and the Area Manager will be investigated and/or managed under the [University of Adelaide Enterprise Agreement](#) (staff) or [Titleholder – Conferral of Honorary Roles Procedure](#) (titleholders).

5. Implementation of Reasonable Measures

The application of Reasonable Measures outlined at 1.e) will be determined on a case-by-case basis. Application of Reasonable Measures as a result of a Report; during an investigation; misconduct process; or investigation by the police or other external agency, is not determinate of the occurrence of Sexual Assault or Sexual Harassment.

In implementing Reasonable Measures, the University will:

- a) consider the risk to the Complainant;
- b) apply the principles of Procedural Fairness;
- c) seek to balance any conflicting rights and interests and ensure victimisation does not occur;
- d) take into account any relevant external requirements as a result of Sexual Assault or Sexual Harassment potentially amounting to a criminal offence; and
- e) discuss the proposed Reasonable Measures with the affected parties.

6. Confidentiality

The confidentiality of a Complainant will be respected, and Reports and Disclosures will not be referred to Police or other external agency without the consent of the Complainant, except to the extent that the staff member may be compelled to disclose details, to protect any person from risk to life, health or safety, or where a Student is under 18 years of age.

Information received as part of a Report or Disclosure will be accessible by the person who provided the information and kept separate from the enrolment, employment and other University records of the Complainant, or any witness.

7. Recordkeeping

All reports of Sexual Assault and Sexual Harassment, records and correspondence taken, including those made to and/or in connection with University owned or affiliated Student accommodation will be securely retained in accordance with the [University Records Policy](#).

For the purposes of reporting on Sexual Assault and Sexual Harassment, information received as part of a Report will be recorded by the University, monitored, and reported upon.

8. Access to Information

Subject to confidentiality requirements, Students will be allowed reasonable access to recorded information about themselves. Access to information relating to a Report of Sexual Assault or Sexual Harassment will be restricted to University staff who have a need to access and use the information in order to carry out their responsibilities under this procedure and the Student Sexual Assault and Sexual Harassment Policy.

DEFINITIONS

Alleged Offender means a person about whom a complaint of Sexual Assault or Sexual Harassment is made as part of a Report.

Complainant means a person who makes a Disclosure or a Report.

Consent¹ means freely and voluntarily agreeing to sexual activity. It also means taking responsibility for ensuring the other person is comfortable and agrees to engage in sexual activity. A person is taken not to have consented to sexual activity if:

- the person agrees because there has been force applied (this includes an express or implied threat of force to the victim or to another person) or because of a threat to denigrate, humiliate, disgrace or harass the person or another person; or
- the person was unlawfully detained at the time of the activity; or
- the activity occurred whilst the person was asleep or unconscious; or
- the activity occurred whilst the person was intoxicated to the point of being incapable of freely and voluntarily agreeing; or
- the activity occurred whilst the person was affected by a physical, mental or intellectual condition or impairment such that they were incapable of freely or voluntarily agreeing; or
- the person is unable to understand the nature of the activity; or
- the person agrees to engage in the activity with a person under a mistaken belief as to the identity of that person; or
- the person is mistaken about the nature of the activity (for example, a person is taken not to freely and voluntarily agree to sexual activity if they agree to engage in the activity in the mistaken belief that the activity is necessary for the purposes of medical diagnosis, investigation or treatment, or for the purpose of hygiene).

Consent cannot be given by a person under the age of 18 years in a case where the accused is the guardian, teacher, religious leader, or in certain other positions of authority over the alleged victim.

Disclosure means the sharing of information regarding Sexual Assault or Sexual Harassment to members of University staff. Disclosures will be recorded without the identity of the Complainant or any details that may suggest the identity of any person involved in the incident/s for the purposes of the University's risk identification, assessment and prevention strategies.

External Report means a report to the police and/or external agency.

Misconduct as defined under [Statute Chapter 3 – of Student Misconduct](#).

Procedural Fairness is the procedural requirement to ensure that a standard of fairness is applied in the investigation and adjudication of a dispute. This involves:

- fully informing a person of any allegation/s made against them;
- giving them the opportunity to state their case, provide an explanation or put forward their viewpoint;
- conducting a proper investigation of the allegations, ensuring that all parties are heard and that all relevant submissions are considered, with reasons given for any decision;

¹ **Consent** is defined in section 46 of the *Criminal Law Consolidation Act 1935 (SA)* ("CLCA").

- permitting Complainants and Alleged Offenders to be accompanied to any meeting by a support person;
- acting fairly, impartially and without bias; and
- declaring any real or potential conflict of interest.

Reasonable Measures are arrangements or adjustments that may be implemented on a case-by-case basis where a Disclosure or Report has been made in order to minimise the potential for harm to any person.

Report means the sharing of information regarding an incident of Sexual Assault or Sexual Harassment to the University for the purpose of accessing support, Reasonable Measures and initiating further action such as an investigation.

Sexual Assault is an inclusive term used to describe any sexual behaviour to which a person does not give Consent to. In South Australia, the following criminal offences - reckless indifference, rape, compelled sexual manipulation, unlawful sexual intercourse (sex with people under the age of consent), indecent assault, grooming, and stalking² - are all forms of Sexual Assault.

Sexual Harassment³ is any unwelcome conduct of a sexual nature, where it is reasonable to expect that the other person would be offended, afraid or humiliated. Sexual Harassment can be verbal, non-verbal, written, graphic or physical. Examples of Sexual Harassment include:

- making remarks about a person's appearance or attractiveness;
- asking a person questions about their relationship or sexual activity;
- sending emails with sexual content;
- showing a person pornographic pictures e.g. on a phone or computer;
- unnecessarily touching the person.

Student is defined in the [Statute](#).

Trained Responders are the people who are trained to assist Students to access support and Reasonable Measures and to make Disclosures or Reports of Sexual Assault and Sexual Harassment.

University Related Conduct means any conduct that is connected to the University, including conduct that occurs:

- during, or in connection with, any function, activity or event related to University (whether sanctioned by University or otherwise);
- when a person is representing University in any capacity;
- during, or in connection with, the performance of duties for University;
- using, or is facilitated by, University ICT resources or other equipment; or
- on, or in connection with, any property owned, leased or occupied by the University (or any entities it controls) or any lands or roads within any University campus.

² The following terms have the meaning ascribed to each of them in the CLCA: **reckless indifference** (section 47), **rape** (section 48), **compelled sexual manipulation** (section 48A), **unlawful sexual intercourse** (section 49), **indecent assault** (section 56), **grooming** (section 63B), and **stalking** (section 19AA).

³ **Sexual harassment** is defined in the *Sexual Harassment (Equal Opportunity Act (SA), section 87*; and the *Sex Discrimination Act 1984 (Cth), section 28A*.

RMO File No.	2018/9612
Policy Custodian	Deputy Vice-Chancellor and Vice-President (Academic)
Responsible policy officer	Executive Director, Division of Academic and Student Engagement
Endorsed by	Vice-Chancellor's Executive on 9 October 2019
Approved by	Vice-Chancellor and President on 26 November 2019
Related Documents and Policies	Behaviour and Conduct Policy Behaviour and Conduct Policy Child-Safe Environment Policy Code of Conduct Equal Opportunity Policy Harassment and Workplace Bullying Information Sheet Privacy Policy Safer Campus Community Statement of Rights Statutes of the University Student Behaviour and Conduct Procedure Student Charter Student Critical Incidents Policy Student Critical Incidents Procedure Student Misconduct Policy Student Misconduct Rules University of Adelaide Enterprise Agreement University Records Policy
Related Legislation	Children and Young People (Safety) Act 2017 Criminal Law Consolidation Act 1935 (SA) Higher Education Standards Framework (Threshold Standards) 2015 Sex Discrimination Act 1984 (Cth.)
Superseded Policies	
Effective from	<<DATE>>
Review Date	<<DATE>>
Contact for queries about the policy	Manager, Student Affairs