



Purpose

1. This Policy sets out the University's overarching principles and commitment to preventing and responding to incidents of sexual harm.
2. This Policy is to be read in conjunction with the:
 - 2.1. Sexual Harm Procedure: Students
 - 2.2. Sexual Harm Procedure: Staff

Scope

3. This Policy applies to all members of the University Community when engaged in University-related activities.
4. University-related activities are activities occurring on and off campus, including University-related social events, and activities which use online platforms and/or social media. This includes, but is not limited to:
 - 4.1. Teaching, study, and research at the University;
 - 4.2. The management or administration of the University;
 - 4.3. Sporting and recreational clubs and facilities;
 - 4.4. Any University-related clinical, professional or practical work, including workshops, camps or field trips;
 - 4.5. Any other activities arranged, sponsored, controlled or supervised by the University;
 - 4.6. Activities on any University campus and all University controlled buildings, facilities, places, and equipment; and
 - 4.7. Activities using information or communication technologies associated with the University, such as online learning platforms and social media.
5. Where sexual harm is disclosed and is outside the scope of this Policy, e.g.: at a private venue and/or on an occasion unconnected with the University of South Australia or relates to the actions of a member of the public, the incident/s will not be investigated by the University. However, support services and referrals will be offered as appropriate.

Responsibilities

6. The University has a responsibility to prevent sexual harassment, sexual assault, and victimisation, and will take action to eliminate and prevent sexual harm through:
 - 6.1. Compliance with legislative requirements.
 - 6.2. Strong and accountable leadership.
 - 6.3. Education and training.
 - 6.4. Regular review and evaluation of this Policy and the supporting procedures.

- 6.5. Annually reviewing and reporting on incidents, systemic issues or patterns to the Vice Chancellor and University Council.
7. All members of the University Community have a responsibility to comply with and demonstrate a proactive commitment to this Policy and related procedures, and for making every effort to ensure the workplace and study and research environments are respectful, safe, and free from sexual harm.
8. All staff have a responsibility to understand and comply with this Policy and relevant procedures, attend relevant training initiatives, and support staff and students in responding to instances of sexual harm.
9. Any UniSA staff member disclosing sexual harm on behalf of another person who chooses to remain anonymous, must advise their own identity to enable the University to meet its responsibilities appropriately.
10. Members of the University Community who provide health, welfare, educational, sporting, recreational, childcare, or residential services directly to children and young people, and those holding management positions with responsibility for such persons have a legislative responsibility to report any suspicion that a child or young person is, or may be, at risk to the Child Abuse Report Line (CARL) as soon as practical, providing the suspicion was formed on reasonable grounds and in the course of the person's University related activities or employment.

Policy Principles

11. Sexual harm is unacceptable and will not be tolerated.
12. The University is committed to providing a safe, respectful and inclusive working and learning environment and culture that is free from all forms of sexual harm.
13. The University's response to Disclosures and Complaints of sexual harm will be trauma-informed and conducted in accordance with the principles of procedural fairness.
14. The University will prioritise safety of all parties involved in a Disclosure or Complaint and provide survivor-centric support for students and staff affected by sexual harm.
15. Where the University investigates a Complaint of sexual harm, any findings made will be in relation to alleged student or staff misconduct and determined according to the balance of probabilities.
16. Any person who experiences sexual harm can report the incident/s to the police or an external agency. The University's investigation process is not a substitute for a police investigation.
17. In circumstances where a perpetrator of sexual harm is not a member of the University Community, or in the event of historical incidents, the University will provide support to the person who experienced the sexual harm but may be limited in its ability to investigate or impose sanctions on the perpetrator.
18. Processes to support Disclosures and Complaints of sexual harm will be simple, accessible, and available through multiple avenues.
19. Investigations will be conducted by appropriately trained investigators, and outcomes implemented in accordance with the relevant University Statutes, by-laws, policies, procedures, industrial instrument, and contracts.
20. The University recognises that while anyone may be subjected to sexual harm, certain groups within the community are more vulnerable, and a person's gender, gender identity, position/status, ability,

age, ethnicity, race, socio-economic status, culture, or religion, may increase their risk of experiencing sexual harm.

21. The University will provide students and staff access to education and awareness activities with the aim of preventing and responding appropriately to sexual harm.
22. The University is committed to reducing barriers to disclosing sexual harm and respects the rights of the person who has experienced sexual harm to decide whether to make a Disclosure or Complaint. The University encourages people to make a Disclosure or Complaint and will support the safety of those who do.
23. Confidentiality and information privacy will be upheld, in accordance with legislative and reporting requirements and University policies and procedures.
24. The University will not tolerate victimisation or retaliation against another person because of their involvement in a Disclosure or Complaint of sexual harm.
25. The University requires all Third-Party Providers to respond to matters of sexual harm in line with the principles of this Policy.
26. The University will not take any action that will compromise a police investigation or any external Complaint resolution process.

Responding to Disclosures or Complaints of Sexual harm

27. The University has procedures for staff and students which outline the preferred practice for responding to Disclosures and Complaints of sexual harm that fall within the scope of this Policy. These procedures are designed to:
 - 27.1. ensure the safety and rights of complainants and/or person/s who have experienced sexual harm;
 - 27.2. meet the requirements of procedural fairness for both complainants and respondents; and
 - 27.3. enable the University to respond to breaches of this Policy.
28. Appropriate action will be taken in accordance with the relevant industrial or legislative instrument, University policies and procedures, and contractual arrangements.
29. Where the University investigates a complaint of sexual harm the outcome of the investigation will be provided in writing to the complainant and the respondent.

Definitions

All terms in this section apply to this Policy and associated Procedures.

Term	Definition
Complaint	A Complaint is when a person formally reports an incident/s of sexual harm for the purpose of initiating an investigation.
Complainant	Complainant is a person who has made a Complaint under this Policy.
Consent	Consent is a conscious, voluntary, mutual and enthusiastic agreement to engage in sexual activity. Some examples of where consent is not considered to have been given are:

Term	Definition
	<ul style="list-style-type: none"> • consent has been expressed or compelled by the words or conduct of a person other than the survivor; • the complainant was incapable of consenting to the sexual activity if they were asleep, unconscious or intoxicated by alcohol or any other substance or combination of substances to the point of being incapable of giving free and voluntary consent to sexual activity; • physical force, threats of harm, an express or implied threat to degrade, humiliate, disgrace or harass the person or some other person; or unlawful detention were used by the respondent/s to engage the complainant in sexual activity; • the respondent or a third party induced, manipulated or otherwise coerced the complainant to engage in the activity by abusing a position of trust, power or authority; • the complainant expressed, by words or conduct, a lack of consent to engage in the sexual activity; • the complainant, having previously consented to engage in sexual activity, withdraws consent to the sexual activity; • the complainant agreed to engage in sexual activity with a person under a mistaken belief as to the identity of that person; • the complainant is mistaken about the nature of the sexual activity (for example the complainant may be told that activity of a sexual nature is part of the provision of health care); • the respondent was recklessly indifferent as to whether the complainant consented to sexual activity or withdrew consent to sexual activity. <p>The examples listed above are not exhaustive.</p>
Designated First Responder	A Designated First Responder is a member of the University Community who, as part of their substantive duties, may provide appropriate support and information to anyone who has experienced sexual harm.
Disclosure	A Disclosure is where a person notifies the University about an incident/s of sexual harm for the purpose of seeking support, advice, and/or resources. Making a disclosure is not the same as making a complaint.
Industrial instrument	Industrial Instrument – means the University of South Australia Enterprise Agreement 2023 (as varied or replaced from time to time).
Procedural fairness	<p>Procedural fairness requires a standard of fairness be applied to all parties. This includes, but is not limited to:</p> <ul style="list-style-type: none"> • all parties being given an opportunity to be heard; • the respondent being provided information about allegations made against them and of any associated process; • the respondent being given a reasonable timeframe within which to respond to the Complaint (if the respondent does not respond

Term	Definition
	<p>within the stipulated timeframe, the investigation may proceed whether or not the respondent chooses to respond to the allegations);</p> <ul style="list-style-type: none"> • all parties being made aware that they can access a support person, if they wish; • the investigator and decision maker not having a conflict of interest; • the investigator and decision maker: <ul style="list-style-type: none"> - acting fairly and without bias - considering all relevant evidence - basing any decision on the relevant evidence • all parties being informed in writing of the outcome of the investigation.
Respondent	Respondent is a member of the University Community or Third-Party Provider about who a complaint of sexual harm has been made.
Sexual assault	<p>Sexual assault is an inclusive term used to describe any type of unwanted sexual act inflicted on a person that they have not freely and voluntarily consented to, have withdrawn consent to, or occurs in circumstances where they are incapable of giving free and voluntary consent.</p> <p>It is inclusive of a variety of unwanted sexual behaviours ranging from unwanted sexualised touching through to sexual intercourse without consent. Sexual assault can include behaviours that involve the use of force, threats, coercion or control towards a person.</p> <p>Grooming can be used to facilitate sexual assault and is defined as the act of deliberately establishing a relationship of trust for the purpose of sexual exploitation, sexual coercion or sexual assault. Sexual assault typically involves an exploitation of vulnerability, betrayal of trust and the misuse of positional power.</p>
Sexual exploitation	Sexual exploitation is any actual or attempted abuse of a position of vulnerability, differential power, or trust for sexual purposes. It includes profiting monetarily, socially, or politically from sexual exploitation of another.
Sexual harassment	<p>Sexual harassment is an unwelcome sexual advance or request for sexual favours or conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated where a reasonable person would anticipate the possibility of that reaction in the circumstances.</p> <p>Sexual harassment includes, but is not limited to:</p> <ul style="list-style-type: none"> • any deliberate and/or unsolicited sexual communication, the use of overt sexual language, suggestive or physical contact that creates an uncomfortable learning/working environment for the

Term	Definition
	<p>recipient and is made by a person who knows, or ought reasonably to know, that such action is unwelcome;</p> <ul style="list-style-type: none"> • a sexual advance or solicitation made by one person to another, where the person making the advance or solicitation knows, or ought reasonably to know, that such action is unwelcome; • a reprisal, or threat of reprisal, for the rejection of a sexual solicitation or advance particularly where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person; • practical jokes of a sexual nature which cause awkwardness or embarrassment; • displaying and/or distributing pornographic pictures or other offensive material of a sexual nature, including audio or visual images of a person through technological devices, equipment and service; • unwanted physical contact such as kissing, touching, patting or pinching; • unwelcome sexual remarks, sexual jokes, intrusive sexual questions, sexual innuendoes or taunting about a person's body, attire, sex, personal or social life; • requests for sexual favours; • staring, ogling or leering; • behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, stalking, technology facilitated image-based abuse or obscene communications (including non-consensual filming or photographing, impersonation, revenge porn, sexting, trolling, outing and trickery).
Sexual harm	<p>Sexual harm is the overarching term for any unwanted, behaviour of a sexual nature. Sexual harm includes sexual assault, rape, sexual harassment, sex-based harassment, sexual exploitation, and any other unwanted sexual behaviour, whether online or in person.</p>
Staff member	<p>Staff member is a person employed by the University under its Enterprise Agreement or other contract of employment.</p>
Student	<p>Student is a person enrolled at UniSA including those on leave.</p>
Support person	<p>Support person means any person who is providing support and assistance to a complainant or respondent. A support person is not a legal practitioner and does not act as an advocate.</p>
Third-Party Providers	<p>Third-Party Provider includes organisations or individuals contracted to perform a service/s for the University including, but not limited to:</p> <ul style="list-style-type: none"> • those engaged to deliver some or all of a course of study to University students via student placements, internships, study tours, student mobility programs, an industry placement,

Term	Definition
	<p>research degree student supervision or ‘twinning arrangements’ that may be conducted on-shore or overseas</p> <ul style="list-style-type: none"> • industry, institutional or community placements undertaken by staff as part of their work for the University. • food outlet operators, cleaners and tradespeople, contractors, consultants and other vendors and suppliers, and • organisations with which the University maintains a non-contractual but continuing professional or collaborative relationship.
Trauma-informed response	<p>Trauma-informed response is a response that demonstrates an understanding and recognition of the impact of trauma, and emphasises physical, psychological and emotional safety, and the importance of empowerment and choice for those who have been subjected to sexual harm.</p>
University Community	<p>University Community refers to all students and staff of the University and includes honorary title holders, visiting academics, guest lecturers, University Council members, and volunteers who are contributing the work of the University but who are not staff.</p>
Victimisation	<p>Victimisation occurs if a person or a group of people commits or threatens to commit an act against a complainant or respondent, or another person acting in support of a complainant or respondent as a result of that Complaint.</p>

Associated Documentation

- [Sexual Harm Procedure: Students](#)
- [Sexual Harm Procedure: Staff](#)
- [DFAT Preventing Sexual Exploitation Abuse and Harassment \(PSEAH\) Policy](#)
- [Confidentiality of Students’ Personal Information Policy](#)
- [Privacy Policy](#)
- [Code of Conduct for Students](#)
- [Student Complaints Resolution Policy](#)
- [Children and Young People Safety Policy](#)
- [Staff Code of Conduct](#)
- [University of South Australia Enterprise Agreement 2023](#)
- [Universities Australia Sexual Harm Response Guidelines 2023](#)
- [Universities Australia Charter on Sexual Harm](#)

The following legislation applies as amended from time to time:

- Sex Discrimination Act 1984 (Cth)
- Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- Workplace Gender Equality Act 2012 (Cth)
- Equal Opportunity Act 1984 (SA)
- Work Health and Safety Act 2012 (SA)
- Whistle-blowers Protection Act 1993 (SA)
- Work Health and Safety Regulations 2012 (SA)
- University of South Australia Act 1990

- University of South Australia Statute 7 – Student Misconduct
- Children and Young People (Safety) Act 2017
- Fair Work Act 2009 (Cth)
- The National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code 2018)
- Return to Work Act 2014 (SA)

Officer/s Responsible: Chief Academic Services Officer and the Executive Director: People, Talent and Culture (ED: PTC)

Approving Authority: Council

Commencement Date: 5 March 2024

Review Date: March 2029

History: This Policy supersedes and replaces: Sexual Assault and Sexual Harassment Policy