

# Sexual Harassment Prevention Policy

## Section 1 - Purpose and Context

(1) Western Sydney University is committed to ensuring a safe and healthy working and learning environment that is free from sexual harassment as required under the Commonwealth [Sex Discrimination Act 1984 \(Cth\)](#), the [Fair Work Act 2009](#) and the [NSW Anti-Discrimination Act 1977](#).

(2) Sexual harassment will not be tolerated under any circumstances and action will be taken against any person who breaches this policy.

(3) All members of the university community have a responsibility to maintain a working and learning environment free from sexual harassment and the policy applies to all members of the University community including staff, students, contractors, visitors or individuals:

- a. in attendance at a University campus or facility, be it owned or leased;
- b. using University equipment, be it owned or leased (e.g. communications technologies, vehicles, facilities);
- c. in attendance at a University event, function or activity;
- d. participating in any activity as a representative or student of the University (e.g. field trips inter-University events, conferences, practicum, clinical placements, etc);
- e. carrying out functions in connection with the University, including at places that are external to University premises, e.g. a pub, a private residence, in the street.

(4) The policy also applies to any form of contact or communication that is relevant to University business activities, whether initiated in person, by telephone, fax, or through new technologies such as mobile phone cameras, social networking websites, emails, SMS/MMS communications, through another person, agent or any other means.

## Section 2 - Definitions

(5) For the purpose of this policy:

- a. Sexual harassment is any unwelcome behaviour of a sexual nature that makes a person feel offended, humiliated or intimidated, and which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person would be offended, humiliated or intimidated.
- b. Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working or learning environment.
- c. Sexual harassment can occur between men and women; women and other women; and men and other men.
- d. Some forms of sexual harassment also constitute a criminal offence (see Clause 10 for examples) and should be reported to the police.
- e. Victimisation refers to less favourable treatment of a person or people for making, supporting or resolving a complaint, whether that participation was actual, intended or presumed.

## Section 3 - Policy Statement

(6) Western Sydney University aims to:

- a. create a working and learning environment that is free from sexual harassment and where all members of the university community are treated with dignity, courtesy and respect.
- b. implement training and awareness raising strategies to ensure that all staff and students know their rights and responsibilities.
- c. provide an effective procedure for complaints based on the principles of natural justice.
- d. treat all complaints in a sensitive, fair, timely and confidential manner.
- e. protect the health and wellbeing of complainants by ensuring any acts of victimisation or retaliation are investigated and dealt with promptly
- f. encourage the reporting of behaviour which breaches the sexual harassment policy.
- g. promote appropriate standards of conduct at all times.

### Part A - Examples of Sexual Harassment

(7) Examples of sexual harassment that in an educational institution include but are not limited to:

- a. uninvited touching;
- b. uninvited kisses or embraces;
- c. smutty jokes or comments in the workplace or the classroom;
- d. making promises or threats in return for sexual favours;
- e. repeated invitations to go out, especially after prior refusal;
- f. "flashing" or sexual gestures;
- g. sex based insults, taunts, teasing or name-calling;
- h. staring or leering at a person or at parts of their body;
- i. unwelcome physical contact such as massaging a person without invitation or deliberately brushing up against them;
- j. touching or fiddling with a person's clothing e.g. lifting up skirts, flicking bra straps;
- k. requests for sex;
- l. sexually explicit conversation;
- m. persistent questions or insinuations about a person's private life;
- n. offensive phone calls or letters;
- o. stalking, sexual insults or taunting;
- p. offensive messages through new technologies such as mobile phone cameras, social networking websites, emails or SMS/MMS communications.

(8) Consensual sexual behaviour at work (such as discussing sex or kissing) might be sexual harassment if it offends someone else who sees or hears that behaviour.

### Part B - What Sexual Harassment is Not

(9) Sexual harassment is not behaviour which is based on mutual attraction, friendship or respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment. Behaviour can become sexual harassment if the interaction changes from being based on mutual attraction, friendship or respect to non-consensual, unwelcomed and unreciprocated interactions.

## **Part C - When Sexual Harassment is a Criminal Offence**

(10) Sexual harassment that is also an offence under criminal law may be referred to the police this includes matters involving:

- a. sexual assault;
- b. physical molestation or assault;
- c. indecent exposure;
- d. stalking;
- e. obscene communications.

(11) Referral of a case to the police does not preclude the University from dealing with the matter through internal complaints procedures.

## **Section 4 - Procedures**

### **Part D - Responsibilities of Managers and Supervisors**

(12) Managers and supervisors have a duty to prevent sexual harassment in the work and learning environment and may be held responsible for sexual harassment in the workplace unless all responsible steps have been taken to prevent or eliminate the harassment.

(13) It is the role of managers and supervisors to identify prevent and redress potential problems. Therefore any manager or supervisor who observes inappropriate behaviours of a sexual nature has a duty to raise it with the person exhibiting the inappropriate behaviour and to take further action if the behaviour does not cease. This duty exists even in the absence of a complaint.

(14) Managers and supervisors have a responsibility to:

- a. monitor the teaching, learning and working environment to ensure that acceptable standards of conduct are observed at all times;
- b. model appropriate behaviour themselves and, if required, seek advice and assistance from Equity, Diversity and Wellbeing in managing staff and students where behaviour may be in breach of this policy;
- c. promote the University's sexual harassment policy within the learning and working environment;
- d. treat all complaints seriously and confidentially and take immediate action to resolve the matter;
- e. ensure that no victimisation occurs against the person who makes a complaint; and
- f. refer complaints to the Complaints Resolution Unit where:
  - i. they are unable to resolve the situation.
  - ii. there is a conflict of interest.
  - iii. the complaint is particularly serious or complex and requires independent investigation.

### **Part E - Responsibilities of Staff and Students**

(15) All Staff and Students have a responsibility to:

- a. comply with the University's sexual harassment policy;
- b. report incidences of sexual harassment that they witness;
- c. offer support to anyone who is being harassed and advise them on where to seek assistance and support; and

- d. maintain confidentiality of information provided during an investigation of a complaint. Students and staff need to be aware that spreading gossip or rumours may expose them misconduct proceedings and/or defamation action.

(16) If a staff member or student witnesses a person being sexually harassed they can help by offering support to the person being harassed. This can be done by:

- a. refusing to join in with any sexually harassing behaviour;
- b. offering to act as a witness if the person being sexually harassed decides to report the incident;
- c. backing them up or supporting the person to say no to the harassment.

## **Part F - What Can You Do If You Are Being Sexually Harassed?**

(17) If you think you have been, or are being, sexually harassed there are a number of things that you can do:

- a. Speak or write directly to the harasser
  - i. If possible and you feel able, promptly tell the offender directly or in writing that their behaviour is offensive and unacceptable and request that it stop immediately; or
- b. Seek Advice
  - i. If you feel you are not able to speak or write to the offender yourself seek advice from your supervisor or manager or Equity, Diversity and Wellbeing or Office of People on possible strategies to resolve the issue.
- c. Keep confidential records about the harassment
- d. Always keep a record of or a diary of incidents noting:
  - i. what happened
  - ii. when and where the harassing occurred
  - iii. the names of witnesses

### **Make a Complaint Using the University's Complaint's Resolution Procedure**

(18) If you wish to make a complaint, the University's procedures for dealing with complaints, including complaints of sexual harassment are set out in the [Complaint Management Policy](#).

(19) All complaints of sexual harassment will be treated seriously, investigated promptly, impartially and confidentially.

(20) If sexual harassment is found to have occurred, action will be taken to stop the behaviour and appropriate disciplinary action will be taken against the offender(s) under the relevant provisions related to student or staff misconduct.

### **External Complaints**

(21) You can make a complaint about sexual harassment to:

- a. The [NSW Anti Discrimination Board](#);
- b. The [Australian Human Rights Commission](#); or
- c. [Fair Work Australia Ombudsman](#).

## Section 5 - Guidelines

(22) The University's [Sexual Harassment Prevention web page](#).

## Status and Details

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