

Sexual Offences (Staff Response) Procedures

Section 1 - Purpose and Context

- (1) The University strives to provide a safe, supportive and caring environment free from sexual assault or any unwanted sexual behaviours.
- (2) These procedures provide Western Sydney University staff with the process they are required to follow when a person makes a report of a sexual offence.
- (3) Sexual offences are crimes of violence. They describe a range of sexual acts committed against a person without their consent. Sexual assault occurs when someone is forced, coerced or tricked into sexual acts or exposed to sexual activity against their will. Sexual assault can also occur when a person is unable to consent, such as if they are substantially intoxicated by drugs or alcohol or asleep. All people regardless of age, cultural background and gender (men, women, transgender, intersex and others) may be the victims or perpetrators of sexual assault.
- (4) When the University becomes aware of an allegation of sexual assault, it will actively support the victim by providing information and facilitating access to relevant counselling, hospital, Police or legal services. A caring and empathic response to the victim can have a major influence on their recovery, their willingness to proceed with legal action and to seek medical and counselling services. For further information on how to respond when someone discloses sexual assault, refer to the University's Respect Now Always web page.
- (5) Sexual offences are different to sexual harassment because they are criminal offences. If a person makes a report of sexual harassment, it should be dealt with under the [Sexual Harassment Prevention Policy](#).

Application

- (6) These Procedures apply to all reports of sexual offences made to University staff, including reports from staff members, entity staff members, students, volunteers and visitors. They apply to conduct alleged to have occurred on University premises or during an off-campus activity anywhere within or outside Australia, including field work, placements, exchanges or internships or at University events.

Section 2 - Definitions

- (7) In this document:
 - a. Act of Indecency means doing an act of a sexual nature with or towards another person or making the person do something of a sexual nature towards them. This includes masturbating in front of another person.
 - b. Consent means that a person freely and voluntarily consents to sexual intercourse. The law says that a person is unable to give consent when:
 - i. asleep or unconscious; and/or
 - ii. substantially intoxicated or affected by alcohol or other drugs; and/or
 - iii. intimidated, coerced or threatened; and/or
 - iv. unlawfully detained or held against their will; and/or

- v. they submit due to the offender being in a position of authority or trust.
- c. Indecent Assault means touching (or threatening to touch) a person's body in a sexual manner without the consent of the other person. This includes unwanted touching of a person's breast, bottom or genitals.
- d. Sexual Harassment means 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 would cause the person to feel offended, humiliated or intimidated.
- e. Sexual Intercourse means:
 - i. penetration of the vagina or anus of any person with any part of the body of another person, or any object; and/or
 - ii. insertion of the penis into the mouth of another person; and/or
 - iii. cunnilingus.
- f. Self-manipulation means penetration of the vagina or anus of any person by an object manipulated by that person.
- g. Sexual Offences mean any one or more of: sexual intercourse with another person without the consent of the other person, forced self-manipulation, sexual assault, indecent assault and acts of indecency.

Definitions from section 61 of the [Crimes Act 1900 \(NSW\)](#).

Section 3 - Policy Statement

(8) These procedures relate to the [Code of Conduct](#), [Student Code of Conduct](#), [Sexual Harassment Prevention Policy](#), [Complaint Handling and Resolution Policy](#), [Academic Staff Agreement](#), [Professional Staff Agreement](#), and [Student Misconduct Rule](#).

Section 4 - Procedures

Part A - Mandatory reporting of sexual offences

(9) A person who knows or believes that a sexual offence has been committed and has information that might be of material assistance in apprehending or prosecuting the offender is legally required to bring that information to the attention of the Police. Failure to do so without reasonable excuse is a criminal offence ([section 316 Crimes Act 1900](#)).

(10) University staff are required to report to the Police, however it is the victim's right to not to talk to the police if they choose, after a report has been lodged by the University. It is also the victim's right to decide whether to undertake counselling or medical treatment.

Part B - Staff response

(11) If a report of sexual offence is made, the relevant staff must immediately:

- a. Ensure the physical safety of the victim and that they are attended to as a priority. Stay with the victim until help arrives.
- b. Notify the Police (000) and Campus Safety and Security (1300 737 003) immediately. Campus Safety and Security will immediately notify the University Counselling Service.
- c. Call an ambulance (000) if the victim has serious physical injuries or they request one.
- d. Support and listen to the victim in a quiet and engaged way, and in a safe space.

- e. Do not ask or question for details of the incident and collect only necessary information to keep the victim safe. Do not ask the victim "why" questions. Do not allow anyone apart from the Police or Campus Safety and Security to question the victim.
- f. Empathically advise the victim of the desirability of preserving evidence (e.g. by not bathing, showering, having anything by mouth, or washing garments) while waiting for the arrival of the Police.
- g. If it is a recent offence, identify where it took place. Secure the area/office/accommodation and do not allow anybody access to the area until Police arrive.
- h. Notify Campus Safety and Security of any indications of suicidal intent or thoughts.
- i. Notify their Supervisor or a senior staff member in their School or Division.
- j. Seek support for themselves if needed. This may be through their supervisor or the [Employee Assistance Program](#) (EAP) (1800 818 728) or 1800RESPECT. The University Counselling Service can also provide support and advice.

Part C - Support for the Victim

(12) Campus Safety and Security will ask if the victim wishes a support person to be contacted to attend and will facilitate this process where necessary. Campus Safety and Security will provide assistance in organising transport for the victim and their support person to hospital if needed.

(13) When transportation to hospital or attendance at hospital is required, Campus Safety and Security or the Counselling Service, in consultation with and with agreement from the victim, will contact the nearest [NSW Sexual Assault Service](#).

(14) If the victim requires assistance with communication or English is not their primary language, an interpreter can be organised through Campus Safety and Security or the Counselling Service.

(15) If the victim is a staff member:

- a. if the staff member wants time away from work, the University has various leave options available to them. In consultation with the victim, managers should consult with their Senior HR Partner and/or Work Health and Safety Coordinator in regard to leave management and return to work planning;
- b. the victim should be offered the [Employee Assistance Program](#) for support, particularly if the victim has not engaged with Sexual Assault Services after the immediate response.

(16) If the victim is a student:

- a. if the student wants time away from study, the University has procedures for temporarily suspending candidature and applying for special consideration. Staff should provide guidance to students on available options;
- b. if the victim is an international student, the Director, Campus Safety and Security will facilitate contact with International Student Welfare Service support.
- c. if the sexual offence occurred overseas, staff must report the incident to the relevant Dean and to the Director, Campus Safety and Security via 1300 737 003, even if the student asks them not to do so. Staff may also contact Customer Care on 61 2 8907 5686 (available 24/7) for information on local support services.

Part D - Follow-up of Alleged Offender

(17) If the alleged offender is a staff member or student:

- a. where possible, Campus Safety and Security will obtain advice from the Police prior to discussing any part of

the allegations being made. Any internal investigation will be conducted in consultation with the Police, to ensure there is no prejudice to individuals or the Police investigation;

- b. Campus Safety and Security will ensure the most appropriate method of informing them about available legal and support services;
- c. staff must safeguard the alleged offender's right to a full and impartial investigation by ensuring confidentiality of names and discouraging any discussion regarding incidents, except on a strictly "need to know" basis;
- d. Campus Safety and Security will also report the matter as follows:
 - i. where the alleged offender is a staff member, to the Executive Director, Human Resources for handling under the relevant staff Enterprise Agreement;
 - ii. where the alleged offender is a student, to the Chief Student Experience Officer for preliminary investigation under the [Student Misconduct Rule](#), to the Executive Director, Student Participation and Success and to the Manager, Complaints Resolution.

Part E - Privacy

(18) The staff member who received the report of sexual offence must safeguard the victim's right to privacy by:

- a. strictly limiting knowledge of the report of sexual offence and details regarding the incident to Campus Safety and Security, Police and the staff member's supervisor. In consultation with the victim, Campus Safety and Security will notify additional University supports as needed;
- b. collecting only the necessary information (e.g. victim's identity, location, and time of the incident, name and/or description of offender(s)). Staff must not ask detailed questions and/or pressure the victim for responses or information about the incident.

(19) Staff should be aware that there are exemptions under the NSW privacy laws for disclosure of personal information where the disclosure is necessary to prevent a serious and imminent threat to the health or life of a person, or for law enforcement purposes.

Part F - Other Follow-up

(20) Staff members are expected to cooperate with Police and/or misconduct investigations and processes. Staff may access assistance and support from the University's Office of General Counsel (02 9685 9895).

(21) If the victim is under 18 years of age, the person receiving the report of the sexual offence must notify Head, Counselling Service, who will make a report to [Family and Community Services](#). This is a mandatory report under the [Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#).

(22) If there is likely to be any ongoing risk to the victim or others at any time, Campus Safety and Security should be notified in order to consider processes that may need to be put in place for the victim, the alleged offender and other members of the University community.

(23) If the sexual offence is reported to the University, the Complaints Resolution Unit will keep the victim informed of the status of any University complaint process.

Part G - Historical Sexual Offences

(24) Regardless of how long ago a sexual offence occurred, if it occurred on campus or at a University-endorsed event, staff who receive the report are to follow the process at Part B clause (11).

Section 5 - Guidelines

Associated Resources

(25) For more information about sexual assault and the Respect.Now.Always. initiative launched by Universities Australia to ensure that university campuses are places of safety and respect for all students and staff, refer to the University's Respect Now Always web page.

(26) These procedures have been adapted from ADFA "Commanders Checklist for Unrestricted Reports of Sexual Assault" and ANU "Staff Protocols for Responding to an Allegation of Recent Sexual Assault".

(27) [Staff Response Procedures Flowchart](#).

Status and Details

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