

Sexual Offences Response Policy and Procedures

Section 1 - Purpose and Context

(1) Western Sydney University has a zero tolerance approach to sexual assault and harassment. The University strives to provide a safe, supportive and caring environment free from sexual offences and unwanted sexual behaviours.

(2) As a university with a diverse students and staff, there is commitment to ensuring that staff have the knowledge and skills necessary to respond to disclosures and formal reports of sexual offences in a culturally competent way thereby meeting the needs of students from different communities, including international students, Aboriginal and Torres Strait Islander students and students from culturally and linguistically diverse backgrounds. There is also acknowledgement of the needs, experiences and perspectives of other distinct groups including but not limited to individuals who identify as LGBTIQ and persons with a disability.

(3) This policy statement on sexual offences and unwanted sexual behaviours and the associated procedures stipulate the obligations of University staff when a person reports a sexual offence.

(4) Sexual offences as defined in this Policy are criminal offences and differ from sexual harassment. Reports of sexual harassment will be dealt with under the [Sexual Harassment Prevention Policy](#).

(5) Sexual offences involve a range of sexual acts committed against a person without their consent. Any person, regardless of age, cultural background, gender or sexual orientation may be a survivor or perpetrator of sexual offences.

(6) A person who has been subject to a sexual offence may be referred to as a 'survivor', 'victim' or 'affected person'. It is acknowledged that there may be different terms used in this context with the choice of term dependent on a number of variables including but not limited to individual preference, amount of time since the sexual offence and stage of recovery. In this policy, the term survivor is used.

(7) When the University becomes aware of an allegation involving a sexual offence, it will respond promptly to the person reporting the allegation by providing support, information and facilitating access to relevant counselling, hospital, police or legal services.

(8) There are a number of external and internal reporting and support options available:

- a. External reporting - In an emergency, call 000 (24 hours per day, 7 days per week) or 131 400 (non-emergency)
- b. Internal reporting:
 - i. Campus Safety and Security (24 hours per day, 7 days per week)
 - ii. Complaints Resolution Unit (Monday to Friday 9am-5pm)
 - iii. [Sexual Offences Reporting Portal](#) - online reporting portal

(9) The University recognises that sexual offences trigger an emotional response which may have long lasting impacts that continue to affect the lives of survivors for many years after the offence. A caring and empathic response to survivors of sexual offences can assist in providing the necessary environment for them to report the matter to the police or other authorities, to seek medical and counselling services and assist their recovery.

- a. External support – 1800 RESPECT or 1800 737 732 (24 hours per day, 7 days per week)
- b. Internal support:
 - i. Students – University [Counselling Service web page](#)
 - ii. Staff – [Employee Assistance Program webpage](#) – or 1800 81 87 28 (24 hours per day, 7 days per week)

(10) This policy applies to all allegations of sexual offences made to University staff, including reports from staff members, entity staff members, students, volunteers and visitors. The policy applies to allegations of sexual offences in Australia and outside Australia occurring on University premises or during off-campus activities associated with the University including sporting events such as University Sports, field work, placements, exchanges, internships and any other University activity.

(11) Where a sexual offence is disclosed or reported as occurring outside the scope of this Policy and Procedures, the matter will not be investigated by the University but support services and referrals will be offered as appropriate.

(12) This Policy and Procedures should be read in conjunction with the University's [Code of Conduct](#), [Student Code of Conduct](#), [Sexual Harassment Prevention Policy](#), [Academic Staff Agreement](#), [Professional Staff Agreement](#), [Student Misconduct Rule](#), [Bullying Prevention Policy](#).

Section 2 - Definitions

(13) In this document:

- a. Sexual offences include, but are not limited to, the offences of sexual assault, indecent assault, an act of indecency and sexual assault by forced self-manipulation, and the aggravated forms of those offences found in Division 10 of the [Crimes Act 1900 \(NSW\)](#).
- b. Sexual offences involve some type of sexual act by a perpetrator in circumstances where the survivor does not consent.
- c. The act involved in sexual assault is sexual intercourse.
- d. Sexual intercourse includes:
 - i. penetration to any extent of the genitalia (including a surgically constructed vagina) of a person or the anus of a person by any part of the body of another person, or any object manipulated by another person; and/or
 - ii. sexual connection occasioned by the introduction of any part of the penis of a person into the mouth of another person; and/or
 - iii. cunnilingus.
- e. The act involved in an indecent assault includes touching or threatening to touch a person's body in a sexual manner. This includes touching a person's breasts, bottom or genitals.
- f. An act of indecency includes an act of a sexual nature with or towards another person or making the person do something of a sexual nature towards the other person or themselves. This includes masturbating in front of another person.
- g. A sexual assault by forced self-manipulation includes threatening a person in a way that the other person could not reasonably be expected to resist engaging in self-manipulation.
- h. Self-manipulation includes the penetration of the vagina (including a surgically constructed vagina) or anus of any person by an object manipulated by that person.
- i. Sexual assault, indecent assault and an act of indecency all occur in circumstances where the other person does not consent to the relevant act – sexual intercourse, indecent touching, engaging in or witnessing an act of indecency.
- j. Consent means that a person freely and voluntarily consents to the sexual intercourse, sexual touching or other

- sexual act. Consent must be expressly given at the outset of the sexual act and can be withdrawn at any time.
- k. A person does not consent to sexual intercourse, sexual touching or other sexual act when:
- i. the person is asleep or unconscious;
 - ii. consent is obtained through threats of violent force or terror; and/or
 - iii. consent is given because the person is unlawfully detained or held against their will.
- l. It can also be the case that a person does not consent when:
- i. the person is substantially intoxicated or affected by alcohol or other drugs;
 - ii. the person is intimidated, coerced or threatened; and/or
 - iii. the perpetrator is in a position of authority or trust.
- m. Sexual assault occurs where the perpetrator believes the other person is consenting but there are no reasonable grounds for believing that the other person is consenting. The steps taken by the perpetrator to ascertain whether the other person consents to sexual intercourse will be taken into account when determining whether there were reasonable grounds for believing that the other person is consenting.
- n. Sexual assault, indecent assault and an act of indecency occur where the perpetrator knows the other person does not consent, foresees the other person may not be consenting and goes ahead anyway, or does not even consider whether the other person is consenting in circumstances where a reasonable person would have considered the issue of consent. Consent can be withdrawn at any time once the sexual act commences which will result in an offence occurring from that point onwards.
- o. 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. Sexual harassment is covered by a separate policy – the [Sexual Harassment Prevention Policy](#).
- p. A forensic medical examination is an examination conducted at a hospital by specially trained doctors and nurses to collect evidence which may be used against a perpetrator of sexual assault.
- q. A person who has been subject to sexual assault may be referred to as a ‘survivor’, ‘victim’ or ‘affected person’. It is acknowledged that there may be different terms used in this context with the choice of term dependent on a number of variables including, but not limited to, individual preference, amount of time since the sexual offence and stage of recovery. For the purposes of this policy, the term survivor is used.
- r. Available support may be provided internally by the University by Student Services or by external providers including, but not limited to, NSW Health Sexual Assault Services, Rape and Domestic Violence Services, Australia counselling services provided by NSW Rape Crisis 24/7 Counselling 1800 424 017; 1800RESPECT – 1800737732 24/7 telephone and online counselling, and the University Counselling Service 1300 668 370 Monday to Friday 9am to 5pm.
- s. The University means the Western Sydney University including all partner providers.
- t. An entity staff member is a staff member of The College, Western Unlimited and/or Early Learning Limited.
- u. Campus Living Villages (CLV) is the on-campus student accommodation provider at Western Sydney University.
- v. University activity or event may be either curricula or co-curricula in nature.
- w. Portal means the University's Sexual Offences Reporting Portal, an online database that securely captures all reports of sexual offences for investigation by the University's Complaints Resolution Unit. [This portal is currently under development.]

Section 3 - Policy Statement

(14) Western Sydney University is committed to:

- a. Creating a working and learning environment that is safe and free from all forms of sexual offences and unwanted sexual behaviours and where all members of the University community are treated with dignity,

courtesy and respect.

- b. Promote appropriate standards of sexual conduct by all members of the University during activities or events with which the University is associated.
- c. Implementing training and awareness raising strategies to ensure all students and staff are aware of what constitutes a sexual offence, how to report an offence, the internal and external support services available, and the consequences for staff and students when there is a determination that a sexual offence has occurred on University premises or in conjunction with any University activity or event. This will include participation in face to face and/or completion of an online module which has been customised for the University.
- d. Encourage survivors and bystanders to report behaviour which may constitute a sexual offence.
- e. Provide an effective procedure for reporting, responding to, and determining allegations of sexual offences based on a transparent and procedurally fair manner.
- f. Provide complainants, including survivors and other reporters of alleged sexual offences, with information about how to contact the police, medical services and University and other counselling and support services.
- g. Providing complainants, including survivors and other reporters of alleged sexual offences, with information about how the University is dealing with the allegation, within the limits of the law.
- h. Responding to all allegations of sexual offences in a sensitive, fair, timely and confidential manner. The following resources and processes facilitate this:
 - i. First Responders Network – This is a network of trained members of the University community who volunteer to assist those who experience a sexual offence. The First Responders are not qualified to provide medical or counselling advice but they are trained to provide an appropriate initial response to a disclosure of a sexual offence. They are able to provide guidance about support services and appropriate contacts within the University. First Responders’ contact details are available on the [First Responder Network webpage](#). A person wishing to disclose or report a sexual offence at or connected with the University may contact any of the listed First Responders for assistance.
 - ii. Sexual Offences Reporting Portal – This is the means by which a sexual offence occurring at or connected with the University can be reported. Data collected via the Portal is used to improve safety and security for the University community. The Portal is managed by the CRU and anyone can use it, including the person who has experienced the sexual offence, someone reporting the assault on their behalf, the person supporting them, a parent. It will enable the University to investigate a complaint in relation to a sexual offence. This Portal is under development(link to be provided).
- i. Protecting the health and wellbeing of complainants, including survivors, by taking steps to minimise the opportunity for retaliation. Ensure any further acts of victimisation or retaliation are investigated and dealt with promptly.
- j. Treating all allegations of sexual offences that relate to University staff and students seriously, whether recent or historic. The University will follow the procedures set out in this Policy when responding to all allegations of sexual offences. The outcomes which may be achieved depend on the information received by the University. If the University cannot progress an investigation due to lack of information, a University representative will liaise with the person who has reported the allegation and ensure that appropriate supports are available.

Section 4 - Procedures

Part A - Mandatory Reporting

(15) A sexual offence can be reported by any person using the Portal directly or to a staff member. All allegations of sexual offences that are reported to a staff member of the University, the Campus Living Villages and/or the University's entities will be recorded by the University by the Complaints Resolution Unit (CRU) in the Portal. The staff member who receives the initial report is responsible for reporting it to Campus Safety and Security, who will then report it to the CRU.

(16) With the exception of matters which are serious indictable offences and must be reported to the police or there is risk to self or others, the University will respect the wishes and confidentiality of the individuals involved and only convey de-identified information to those staff who need to know. Refer to Part D – Privacy of this Policy and Procedures.

(17) If the sexual offence is reported to the University, the CRU will keep the survivor (subject to their identity being known) informed of the status of any University complaint process.

(18) Some sexual offences may be punishable by more than five years' imprisonment. These include sexual assault, indecent assault and forced self-manipulation. In these cases, the University must report the incident to the police. Therefore, a University staff member 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 CRU. In such situations, the survivor is to be advised of the need to report the matter to the police. It is the survivor's right to decide whether they wish to participate in any resulting investigation.

(19) If the survivor is under 18 years of age, the person receiving the report of the sexual offence must notify the Team Leader, Counselling Service, who will make a report to Family and Community Services.

(20) It is the survivor's right to not talk to the police even if the matter has been reported to the police by a third party. It is also the survivor's right to decide whether to undertake counselling or medical treatment.

(21) Staff members who receive reports of sexual offences are expected to cooperate with police and/or misconduct investigations and processes. In this event, the staff member should contact the CRU who will facilitate necessary support and advice.

(22) If a student reports to a staff member information about an alleged sexual offence involving another person, the staff member will advise the student of available supports. These include, but are not limited to Rape and Domestic Violence Services Australia counselling services provided by NSW Rape Crisis 24/7 Counselling 1800 424 017; 1800RESPECT - 1800737732 24/7 telephone and online counselling, and the University Counselling Service 1300 668 370 Monday to Friday 9am to 5pm. If the staff member is unsure of supports available, the advice of a First Responder, Sexual Assault/Harassment should be sought. First Responder representatives are available in each School and within Student Services. The list of University First Responders is available on the University's website. The Complaints Resolution Unit will follow up to ensure that the student and the alleged survivor receive access to available supports.

Part B - Staff Response

(23) Students or staff may report allegations of sexual offences which have occurred recently or historically, and in which the student or staff member is the survivor of the alleged sexual offence, a bystander, a confidant of the survivor or offender, or have some other knowledge of the alleged offence.

Recent Sexual Offences

Immediate Response

(24) When an allegation of a recent/immediate sexual offence is reported to a member of staff, by the survivor or another person, the staff member must:

- a. Ensure the physical safety of the survivor and/or the person reporting the alleged offence and themselves.
- b. If the situation involves danger to the survivor or any other person, contact the police (000) and Campus Safety and Security (+61 1300 737 003).

- c. If the survivor has serious physical injuries or a high level of distress, call an ambulance (000).
- d. If the incident has just occurred but does not involve danger to the survivor or any other person, inform the survivor that it would be prudent to contact the local police. Offer to contact the local police for the survivor.
- e. Support and listen to the survivor in a quiet and engaged way in a safe place. Tell them that you believe them, and that it is not their fault. Do not ask for details of the incident or why it happened.
- f. Inform the survivor that the incident involves a matter of security, and that you will report the matter to Campus Safety and Security. Report the matter to Campus Safety and Security (+61 1300 737 003).
- g. If the allegation involves a sexual assault or indecent assault, advise the survivor of the importance of preserving evidence (e.g. by not bathing, showering, having anything by mouth, or washing garments) while waiting for the arrival of the Police.
- h. 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.
- i. Safeguard the survivor at this time, from any formal or informal investigative interviews or inquiries, except those required by the Police or by Campus Safety and Security to ascertain the immediate safety and welfare of the survivor and others.
- j. Remain with the survivor until Campus Safety and Security arrive. The survivor may ask the staff member to remain with them after Campus Safety and Security arrive.
- k. Notify Campus Safety and Security of any indications of suicidal intent or thoughts.
- l. Inform the survivor that in line with University policy, you are required to report the matter to the Complaints Resolution Unit. Assure the student that this will not be recorded on their student record.
- m. If the survivor requests an interpreter, contact the Campus Safety and Security 1300 737 003 or the Counselling Service Ph. 1300 668 370 who will assist you to contact an interpreter.
- n. Campus Safety and Security will ask if the survivor wants a support person to be contacted to attend. This may be a personal friend, family member, University counsellor or the person to whom the survivor made the report of the sexual offence. Where necessary, Campus Safety and Security will facilitate this process.
- o. Offer the survivor support options. This includes referral to 1800RESPECT 24/7 telephone line and/or the Rape and Domestic Violence Services Australia to access trained counsellors. If the survivor requests, the staff member should make the call on behalf of the survivor.
- p. Campus Safety and Security will organise an ambulance or provide assistance in transporting the survivor and their support person (if applicable) to hospital if needed for medical attention or a forensic medical examination.
- q. 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 survivor, will contact the nearest NSW Sexual Assault Service <http://www.health.nsw.gov.au/publichealth/sexualassault/contacts.asp>.

Ongoing Support

(25) If the survivor is a staff member:

- a. and wants time away from work, the University has various leave options. In consultation with the survivor, managers should consult with their Senior HR Partner and/or WHS&W Consultant in regard to leave management and return to work planning.
- b. The staff member receiving the report of the sexual offence must offer the survivor support options. This includes referral to Rape and Domestic Violence Services Australia counselling services provided by NSW Rape Crisis 24/7 Counselling 1800 424 017; 1800RESPECT - 1800 737 732 24/7 telephone and online counselling and the University Counselling Service 1300 668 370 Monday to Friday 9am to 5pm. If the survivor requests, the staff member will make the call on behalf of the survivor. The [Employee Assistance Program Procedures](#) 1800 81 87 28 will also be offered as an option.

(26) If the survivor is a student:

- a. and wants time away from study, the University has procedures for temporarily suspending candidature and applying for special consideration. The staff member receiving the report will make contact with the Complaints Resolution Unit (CRU). The CRU will contact the relevant Dean and ask for blanket special consideration for all units in which the student is currently enrolled. No details of the sexual offence will be provided to the School although the Dean will be advised that the student has been involved in a serious matter that is being managed at a senior level within the University. If concerns arise in regard to this student, the School must report them to the CRU.
- b. and an international student, the Director, Campus Safety and Security will facilitate contact with International Student Welfare support.
- c. and the sexual offence has occurred overseas during an event organised by the University, staff must report the incident to the Director, Campus Safety and Security (61 1300 737 003). The survivor should be advised that this will occur. Staff may also contact Customer Care on 61 2 8907 5686 (available 24/7) for information on local support services.
- d. The staff member receiving the report of the sexual offence should offer the survivor support options. This includes referral to 1800RESPECT 24/7 telephone line and/or the Rape and Domestic Violence Services Australia to access trained counsellors. If the survivor requests, the staff member should make the call on behalf of the survivor.

Historical Sexual Offences

(27) 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 must follow the Mandatory Reporting procedures set out in this document.

(28) Staff should support the survivor including if a survivor is experiencing difficulties with employment or studies. Survivors should be referred to appropriate counselling and support services. This includes referral to 1800RESPECT 24/7 telephone line and/or Rape and Domestic Violence Services Australia to access trained counsellors. If the survivor requests, the staff member should make the call on behalf of the survivor.

Support for the Person Making the Report

(29) The staff member receiving the report of the sexual offence should advise their supervisor and seek support if needed. This may be through the staff member's supervisor or the [Employee Assistance Program Procedures](#) (EAP) (1800 818 728). The University Counselling Service can also provide support and advice.

Part C - Actions in Relation to the Alleged Offender/s

(30) If the alleged offender/s 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. it is recognised that the alleged offender also needs support. Campus Safety and Security will ensure the most appropriate method of informing the alleged offender/s about available legal and support services;
- c. staff must safeguard the alleged offender/s right to a full and impartial investigation by ensuring confidentiality, 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/s is a staff member, to the Chief People Officer for handling under the relevant staff Enterprise Agreement;

- ii. where the alleged offender/s is a domestic student, to the Chief Marketing and Experience Officer for preliminary investigation under the [Student Misconduct Rule](#) and to the Executive Director, Equity, Safety and Wellbeing and Director, Complaints Management and Resolution.
- iii. where the alleged offender/s is an international student, report as above and to Team Leader, Welfare Service.

(31) The University's investigations will be procedurally fair. The person allegedly responsible for the sexual offence will have the opportunity to understand and respond to the allegations made against them before a determination is made.

(32) If the allegation is substantiated, in whole or in part, the University will impose an appropriate disciplinary action.

Part D - Privacy

(33) The staff member who received the report of the alleged sexual offence must be mindful of the right to privacy of all individuals involved by:

- a. using de-identified information wherever possible;
- b. collecting only the necessary information (e.g. survivor's and alleged offender's identity, location, and time of the incident, name and/or description of offender/s);
- c. only disclosing details of the incident in accordance with this Policy and Procedures. This includes strictly limiting knowledge of the report of sexual offence to persons who need to know. In making this determination, consideration should be given to possible effects on academic study, within the classroom and in relation to living arrangements if a student lives in a CLV residence;
- d. if there is likely to be any ongoing risk to the survivor or others at any time, notifying Campus Safety and Security to identify processes that may need to be put in place for the survivor, the alleged offender and other members of the University community whilst balancing the need for privacy for all parties;
- e. being aware that there are exemptions under the NSW privacy laws for disclosure of personal information where the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or life of a person, or for law enforcement purposes.

Section 5 - Guidelines

(34) 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" and the University of NSW "Sexual Misconduct Prevention and Response Policy".

(35) [Sexual Offences Response Flowchart](#).

Status and Details

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Unit Head	Ellen Brackenreg Executive Director, Equity, Safety and Wellbeing 47360642
Author	Ellen Brackenreg 47360642
Enquiries Contact	Ellen Brackenreg Executive Director, Equity, Safety and Wellbeing 47360642