

# Sexual Misconduct Prevention and Response Policy

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- responding appropriately and effectively to disclosures and reports of sexual misconduct.

A disclosure of sexual misconduct occurs when a person affected tells another person. A report of sexual misconduct is when a report is made by a person affected or someone on their behalf in the

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UNSW recognises that the length of time between an alleged incident of sexual misconduct and the making of a report to the Portal may vary, depending upon a range of factors. Referral services will be offered where appropriate, regardless of the date of the incident being reported.

The 12-month time limit applicable to complaints under the *UNSW Student Complaint Procedure* and the *UNSW Staff Complaint Procedure* does not apply to reports of sexual misconduct. However, UNSW may in its discretion decide that its investigative and disciplinary processes will not be available where the report relates to an incident which occurred more than 12 months prior to the report. This is because the University's ability to investigate and discipline respondents effectively and fairly diminishes over time.

### **1.7. Confidentiality and Privacy of Information Submitted to the Portal**

Information stored in the Portal from which an individual's identity is apparent or can be ascertained is personal information. The collection, storage, use and disclosure of personal information is governed by the *Privacy and Personal Information Protection Act 1998* (NSW) (the PPIP Act). The University will only permit information stored in the Portal to be accessed and used by staff who have a need to access and use the information in order to carry out actions and responsibilities described under this Policy.

Personal information will only be disclosed outside the University where:

- the disclosure is necessary to prevent a serious and imminent threat to the life or health of the individual concerned or another person; or
- the individual to whom the information relates has expressly consented to the University disclosing the information; or
- the University is lawfully authorised or required to disclose the information, for example because:
  - o the information indicates evidence of a serious indictable offence;
  - o of a subpoena or warrant issued to the University; or
  - o a mandatory reporting requirement arises in regard to children and young persons

An individual whose personal information has been stored in the Portal is entitled, subject to limited exceptions prescribed by the PPIP Act, to ascertain if the University holds personal information about them and may request access to that information.

### **1.8. UNSW Investigative and Disciplinary Processes**

Where a report of sexual misconduct connected with UNSW is received, the University may commence an investigation in accordance with its misconduct procedures (including, in the case of alleged conduct by a staff member, an investigation under the applicable Enterprise Agreement). If the allegation is substantiated, in whole or in part, the University will impose an appropriate disciplinary outcome.

Reports of sexual misconduct which may constitute criminal conduct, such as sexual assault, will be promptly referred to the Police. When a Police investigation is commenced, UNSW will defer its own investigation process until it is advised that the Police investigation is complete or is not continuing. Any such deferral will not limit any urgent interim measures that may be necessary to preserve the safety and wellbeing of individuals.

UNSW investigations will be procedurally fair. This means that the person allegedly responsible for the sexual misconduct will be provided with an opportunity to understand and respond to the allegations made against them before a determination is made.

Any retaliatory or other adverse action taken or threatened against a staff member or student because of their involvement in reporting sexual misconduct will result in disciplinary action. In this context,

<b>Accountabilities</b>	
<b>Responsible Officer</b>	Deputy Vice-Chancellor Inclusion and Diversity
<b>Contact Officer</b>	Manager Inclusion and Diversity
<b>Supporting Information</b>	

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Sexual harassment occurs where there is an unwelcome sexual advance, or other unwelcome sexual behaviour, towards another person, in circumstances where it can reasonably be expected that the person will feel intimidated, humiliated or offended by the behaviour. The person's age, religious beliefs, race or ethnic origin might be relevant in considering their likely reaction to the behaviour. The unwelcome behaviour might involve a request for sexual contact, but there are other types of conduct which can amount to harassment.

In the context of certain activities and relationships, sexual harassment is unlawful under anti-discrimination legislation. For example, sexual harassment of students by staff of the University is unlawful, as is sexual harassment of staff by students. It is also unlawful for a staff member of the University to sexually harass another staff member. Other examples of unlawful sexual harassment are where the relevant behaviour is by a person offering accom

## Sexual Harassment

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