

## **Sexual Harassment and Sexual Assault Prevention & Response Policy**

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### **1. Purpose**

This policy affirms Flinders University's commitment to:

- a. creating a safe and respectful environment for work and study for all members of the University community
- b. responding compassionately and appropriately to reports of sexual harassment and sexual assault, and
- c. providing an accessible mechanism for addressing reports of sexual harassment and sexual assault.

### **2. Scope**

This policy applies to all members of the [University community](#), when they are engaged in [work- or study-related activities](#), at any location or online, including social activities occurring on campus. This policy also applies to all activities and actions taking place within, or related to, student accommodation owned or managed by Flinders University.

### **3. Policy statement**

#### **3.1. General Principles**

- a. Sexual harassment and sexual assault are unlawful. They are also a fundamental erosion of a person's right to be treated equitably, respectfully, and in a way that protects their safety.
- b. Sexual harassment and sexual assault can have a profound and lasting impact for survivors, their families and friends, and their communities. These behaviours are never acceptable or deserved, and will not be tolerated at Flinders University.

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- c. All sexual harassment and sexual assault is misconduct or serious misconduct as defined by the Flinders University Enterprise Agreement, and the University's policies and procedures on staff and student conduct, and will be responded to accordingly.
  - d. The priority of the University in addressing matters of sexual harassment and sexual assault is the safety and wellbeing of the person who experienced the behaviour. The University will also have regard to the safety and wellbeing of other parties to the matter (e.g. witnesses, other community members, and alleged perpetrators).
  - e. The University recognises that different community members will have different needs and experiences, and that some populations may be more vulnerable to sexual harassment and sexual assault than others. The University will provide sensitive and appropriate mechanisms so that all members of the University community can be supported and enabled to obtain help if they experience sexual harassment and/or sexual assault.

### 3.2. What is sexual harassment?

- a. [Sexual harassment](#) is 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 as likely to cause offence, humiliate or intimidate.
- b. In addition to conduct directed at a particular individual, sexual harassment also includes conduct that creates a sexually inappropriate work or study environment.
- c. The laws relating to sexual harassment apply equally to people of all genders. Same-gender sexual harassment is also unlawful.
- d. Sexual harassment may be intentional or unintentional. However, behaviour will only be found to be sexual harassment if it satisfies all other elements (i.e. that the behaviour is of a sexual nature and makes a person feel offended, humiliated or intimidated, in circumstances where a reasonable person would have anticipated this outcome).

### 3.3. What is sexual assault?

[Sexual assault](#) is a crime which carries serious penalties. It covers a range of sexual acts, including, but not limited to, those identified within Division 11 of the *Criminal Law Consolidation Act 1935* (SA), which take place without a person's [consent](#), or where their consent has been obtained through deception or coercion, or where consent is withdrawn.

### 3.4. University expectations

- a. All members of the University community have the right to work and study in an environment free of sexual harassment and sexual assault. This means individuals have the right to:
  - i. expect the University to work to create an environment free of sexual harassment and sexual assault to the fullest extent possible. This includes, but is not limited to, providing training and awareness programs for both staff and students
  - ii. be treated with compassion and dignity if sexual harassment or sexual assault occurs
  - iii. be provided with support services following a sexual harassment or sexual assault
  - iv. expect that any report of sexual harassment or sexual assault will be treated with appropriate confidentiality at all times
  - v. make decisions about how they wish to progress the matter, with the proviso that the University may still take action if it is necessary to protect the University community or any of its members
  - vi. expect that the University will take action with regard to a complaint in a timely, fair and appropriate manner
  - vii. participate in a complaints process that does not create any disadvantage for them, including where interim actions are taken
  - viii. not suffer recrimination in any way, by any person, because they have made a report of sexual harassment or sexual assault.

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- b. All members of the University community also have the responsibility to:
- i. not sexually harass or sexually assault others
  - ii. immediately stop unintended sexual harassment when informed that the behaviour is causing offence, humiliation or intimidation
  - iii. not impede a person from reporting an incident of sexual harassment and sexual assault, including threatening consequences for reporting
  - iv. respond compassionately and appropriately if a report of sexual harassment or sexual assault is made by any person
  - v. refer the matter to the [Child Safe Environment Policy](#) if the report is made by a person aged under 18 years (this is mandatory)
  - vi. not subject any person who has made a report or against whom a report has been made to any form of recrimination
  - vii. not make false or vexatious allegations of sexual assault or harassment against another person.

### **3.5. Reporting sexual harassment and sexual assault**

- a. Any member of the University community who experiences sexual harassment or sexual assault when engaged in work- or study-related activities is strongly encouraged to make a report to the University. Staff are also strongly encouraged to report any incident that they witness or become aware of.
- b. The University will provide support and assistance to any member of the community who experiences sexual harassment or sexual assault, and will provide multiple accessible, appropriate methods for people to make reports.
- c. A report is considered to be a disclosure, and is not treated as a complaint unless the person proceeds to making a complaint.
- d. The University's processes for receiving and responding to reports is described in the [Sexual Harassment and Sexual Assault Response Procedures](#).

### **3.6. Interim action**

If the University judges it necessary to protect the safety and wellbeing of the University community, any person may be subject to without-prejudice measures once a report is made or while an internal or police investigation is ongoing, including but not limited to:

- i. suspension from the University (for students)
- ii. suspension from employment (for employees)
- iii. reassignment of a person's work or study location or class allocation, or
- iv. a temporary ban on attending campus or particular parts of campus (although students may be enabled to continue studies online if practical).

### **3.7. Ongoing support**

After a matter has concluded, the University will continue to provide reasonable assistance and support measures as determined on a case-by-case basis to:

- i. protect the safety and welfare of all parties, and
- ii. support any person who has been sexually harassed or sexually assaulted.

### **3.8. Recordkeeping and reporting**

The University will keep accurate and sufficient records of all reports. Periodic reporting of deidentified data will occur in accordance with the [Sexual Harassment and Sexual Assault Response Procedures](#).

## 4. Breaches of this policy

- a. Sanctions for substantiated complaints of sexual harassment and sexual assault and other conduct breaches under this policy will be applied under:
  - i. [Statute 6.4–Student Conduct](#)
  - ii. discipline provisions in the Flinders University Enterprise Agreement 2019
  - iii. contract provisions in relevant contracting or consulting agreements.
- b. Sanctions up to and including termination of employment, contract or enrolment may be applied.

## 5. Definitions

<b>Consent</b>	<p>In the context of sexual activity, consent is free and voluntary agreement to engage in the specific sexual activity undertaken. Consent does not exist when:</p> <ul style="list-style-type: none"><li>• the person is under the lawful age of consent as specified in the applicable criminal code or legislation</li><li>• the person agrees because of force, the threat of force, or the threat of humiliation</li><li>• the person is unlawfully detained</li><li>• the person is asleep or unconscious</li><li>• the person is intoxicated to the point of being unable to give meaningful consent</li><li>• the person is incapable of understanding the nature of the activity</li><li>• the person has a mistaken belief about the identity of the other person, or</li><li>• the person is mistaken about the nature of the activity.</li></ul>
<b>Sexual harassment</b>	<p>Sexual harassment is 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 as likely to cause offence, humiliate or intimidate.</p> <p>Examples of sexual harassment include:</p> <ul style="list-style-type: none"><li>• non-consensual physical contact, such as pinching, touching, grabbing, kissing or hugging</li><li>• sexual assault</li><li>• staring or leering at a person or at parts of their body</li><li>• persistent requests to go on dates that are refused</li><li>• suggestive comments about a person's body or appearance</li><li>• sexual jokes or comments and sexually explicit conversations</li><li>• displays of offensive material</li><li>• accessing or downloading sexually explicit or inappropriate material from the Internet</li><li>• sending rude or offensive emails, attachments or text messages (including pictures of body parts)</li><li>• advances via online platforms</li><li>• intrusive questions about a person's private life or physical appearance</li><li>• disclosure of a person's private personal information without their permission</li></ul>

	<ul style="list-style-type: none"> <li>sexually explicit gifts.</li> </ul>
<b>Sexual assault</b>	<p>Sexual assault is a range of behaviours, all of which are unacceptable and constitute a crime, when a person is forced, coerced or tricked into sexual acts against their will or without their free and voluntary consent, including when they have withdrawn their consent. This includes:</p> <ul style="list-style-type: none"> <li>rape</li> <li>indecent assault (sexual acts that involve touching)</li> <li>any sexual contact with a child</li> <li>sexual servitude</li> <li>forcing someone to witness a sex act.</li> </ul>
<b>University community</b>	<p>For the purposes of this policy, University community includes:</p> <ul style="list-style-type: none"> <li>enrolled Flinders students, including cross-institutional students and students on exchange from another institution</li> <li>employees and exchange staff</li> <li>employees of controlled entities, Centres and Institutes, and affiliated clubs and associations</li> <li>contractors and consultants performing work on University sites or on behalf of the University</li> <li>visiting academics or persons with academic status</li> <li>the Council and its committees</li> <li>any volunteer in the workplace and study environment.</li> </ul>
<b>Work- and study-related activities</b>	<p>Work- and study-related activities are any activities that relate to a person's employment / work commitment, involvement with or status as a student, or other connection with the University. This includes activities that take place away from University sites, such as field trips, conferences, Work-Integrated Learning placements, work experience placements, work- and study-related social events and email, online and social media activities.</p>

## 6. Legislation

This policy supports compliance with the requirements of:

- Equal Opportunity Act 1984 (SA)
- Sex Discrimination Act 1984
- Fair Work Act 2009
- Criminal Law Consolidation Act 1935 (SA)

## 7. Supporting procedures

Supporting procedures are part of this policy and provide additional detail to give practical effect to the policy principles.

[Sexual Harassment and Sexual Assault Response Procedures](#)

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## 8. Related policies

[Child Safe Environment Policy](#)

[Staff Grievances](#) provisions in the University's Enterprise Agreement

[Statute 6.4–Student Conduct](#)

<b>Approval Authority</b>	Deputy Vice-Chancellor (Students) Vice-President (Corporate Services)
<b>Responsible Officer</b>	Director, Student Services Director, People and Culture
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\* Unless otherwise indicated, this procedure will still apply beyond the review date.

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