
Sexual Harassment Response Policy

1. Purpose

- 1.1 Te Herenga Waka – Victoria University of Wellington (the University) does not tolerate any form of sexual harassment. The purpose of this Policy is to help give effect to the University's values and promote an environment in which sexual harassment is unacceptable and where individuals and groups have the confidence to complain about such behaviour, in the knowledge that their concerns will be taken seriously and dealt with appropriately and fairly. The University is committed to preventing sexual harassment and to protecting the rights of the Members of the University Community to work, learn, study, and participate in all aspects of the University's life in an environment of safety and respect.

2. Application of Policy

- 2.1 This Policy applies to Members of the University Community and is supported by the Sexual Harassment Response Procedures and the online guidance documents for [Students](#) and [Staff Members](#).
- 2.2 The Policy applies to conduct connected with a Student or Staff Member's status as a Member of the University Community.

Policy Content

3. The Policy

- 3.1 All Members of the University Community must not sexually harass other Members of the University Community.

4. Main Principles

- 4.1 This Policy:
- (a) prohibits sexual harassment by Members of the University Community;
 - (b) supports the University's values, including those of inclusion and diversity, respect, integrity, kaitiakitanga, manaakitanga, and whanaungatanga;
 - (c) protects the safety and wellbeing of Members of the University Community disclosing or complaining about sexual harassment;
 - (d) encourages safe active bystander intervention;
 - (e) encourages a 'trauma-informed' approach;
 - (f) recognises the importance of support for members of the University Community who have experienced sexual harassment, as well as active bystanders;
- 4.2 In addition to the above, the University commits to actively promoting this Policy and providing training and education for the members of its community so as to address sexual harassment in a more preventive manner.

5. Emergency and ongoing support and assistance

- 5.1 Those concerned for the immediate safety of themselves or others, or to report a criminal matter, should contact New Zealand Police by calling 111.
- 5.2 Campus Security maintains a 24/7 presence on campus. To report an emergency, Campus Security can be contacted on 0800 842 8888 from an external phone or extension 8888 from an internal phone.
- 5.3 The University is committed to supporting students and staff members through the complaint and disclosure processes. Alternative resolution processes are also potentially available. Contact and other information for ongoing support and assistance are set out in the Appendices to the Sexual Harassment Response Procedure.
- 5.4 Those who have experienced sexual harassment may seek assistance and support from any Member of the University Community that they trust.

6. Meaning of sexual harassment**6.1 Sexual harassment means:**

- (a) the making of a request of any other person for sexual intercourse, sexual contact, or other form of sexual activity which contains an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment; or
- (b) by the use of language (whether written or spoken) of a sexual nature, or of visual material of a sexual nature, or by physical behaviour of a sexual nature, to subject any other person to behaviour that –
 - (i) is unwelcome or offensive to that person (whether or not that is conveyed to the person complained about); and
 - (ii) is either repeated, or of such a significant nature, that it has a detrimental effect on that person.

Note: This definition of sexual harassment aligns with section 62 of the Human Rights Act 1993.

6.2 Below are some examples of behaviour that can constitute sexual harassment if they meet the definition in clause 6(1) above:

- (a) inappropriate touching, hugging, kissing, staring, or leering, encroaching on someone's personal space
- (b) unwanted invitations to go out together, particularly if those are repeated after a previous invitation has been declined
- (c) requests for sexual favours, or pressure for sex or other sexual acts
- (d) repeated or inappropriate advances of a sexual nature on email or social networking sites and apps
- (e) direct or indirect requests for sexual activity that contain an implied or express promise of preferential treatment or threat of detrimental treatment
- (f) intrusive questions or comments about a person's private life, clothing, or physical appearance
- (g) sexually explicit pictures, posters, gifts, emails, or text messages
- (h) sexual gestures, indecent exposure, or inappropriate display of the body
- (i) sexually suggestive comments or jokes, or other forms of inappropriate language

- (j) stalking
- (k) sexual assault.

Note: In considering whether a particular behaviour or action may amount to sexual harassment, context is important and relevant. For instance, one factor that may be taken into account is any actual or perceived power imbalance between the parties.

7. Difference between Disclosures and Complaints

- 7.1 Students and Staff Members who have experienced sexual harassment have the right to decide whether they want to make a Disclosure and/or a Complaint or not.
- 7.2 Individuals who do not want the University to take any specific action in response to an incident can choose to make a Disclosure. Subject to clause 7.3(a) below, the University will keep a confidential record of the individual's account of what they consider has occurred. There will be limitations in respect of the action that the University is able to take in respect of Disclosures.
- 7.3 Those who choose to make a Disclosure may later decide to make a Complaint about the same incident. The University will provide guidance on how to make a Complaint in such cases.
- 7.4 Those who have experienced sexual harassment can make a Complaint (rather than a Disclosure) if they want the University to investigate or take appropriate action.
- 7.5 When a Complaint is made to the University about sexual harassment, the University will explain the processes available.

8. Disclosures of sexual harassment

- 8.1 Students or Staff Members who have experienced, witnessed, or know of sexual harassment can make a Disclosure to the University through any of the contact methods set out in clause 4 of the Sexual Harassment Response Procedure.
- 8.2 A person may also make a disclosure of alleged sexual harassment 'on behalf of' another individual/s. In this case that person should obtain the consent of that individual/s to do so, and should identify that they are making the disclosure on behalf of that other individual/s.
- 8.3 Disclosures of sexual harassment can be made anonymously through the method specified in clause 4 of the Sexual Harassment Response Procedure.
- 8.4 The University will treat Disclosures confidentially, and will not investigate and consider taking formal action in relation to a Disclosure, unless:
 - (a) there appears to be a serious and imminent threat to the Complainant's life or health or that of another individual; or
 - (b) one or more Students or Staff Members name the same person in a separate incident Disclosure, and the University is concerned that there may be a serious and imminent threat to the life or health of other persons.
- 8.5 If the University decides to investigate and take formal action in relation to a Disclosure pursuant to clause 8.3 above, even if those who disclosed and/or experienced the alleged behaviour have not sought or agreed to that action, it will explain and discuss the reasons for this decision and how any risks arising out of that decision will be managed to the individual who disclosed and/or experienced the alleged behaviour.
- 8.6 The University may also decide to informally advise the person complained about that a Disclosure has been made about them, even if those who disclosed and/or experienced the alleged behaviour have not sought or agreed to that action, in order to effect behavioural change. Before taking that action, the University will explain and discuss the reasons for this decision and consider the views of those who disclosed and/or experienced the alleged behaviour. The

University will otherwise use the information in Disclosures on a de-identified basis to identify trends and patterns and develop targeted responses for current and future incidents of reported sexual harassment.

9. Complaints of sexual harassment

9.1 Students or Staff Members who have experienced, witnessed, or know of sexual harassment can make a Complaint through any of the contact methods in clause 5 of the Sexual Harassment Response Procedure.

9.2 Any person who makes a Complaint on behalf of a Student or Staff Member must first obtain their explicit permission and consent to do so and make it clear when lodging the Complaint on whose behalf the Complaint is being made.

9.3 Where a person has made a Complaint with the permission and consent of a Student or Staff Member concerned, the complainant will be contacted and may be required to engage in the investigation and Complaint process.

Note: There may be limitations in respect of the action that the University is able to take in respect of complaints that have been made on behalf of another individual.

9.4 In most circumstances, a Student or Staff Member wishing to make a Complaint will need to provide their name. The University will not act on anonymous Complaints unless:

- (a) it is not necessary for the person complained about to be aware of the identity of the complainant in order to fully understand and respond to the allegations in the Complaint; or
- (b) there is independent evidence supporting the Complaint and the allegation can be tested fairly.

9.5 The University is unable to act on Complaints from complainants who decline to provide information about the person complained about. In such cases, the Complaint will be treated as a Disclosure.

9.6 The University will handle Complaints in accordance with the Sexual Harassment Response Procedure and the Student Conduct Statute or the Staff Conduct Policy.

9.7 If a Student or Staff Member makes a Complaint about a visitor or other person over whom the University has no jurisdiction, the University may seek assistance from another organisation or refer the Complaint to an external agency for resolution. The University may also take steps to ensure the safety of its community (such as issuing a trespass notice) where satisfied that it is appropriate to do so.

10. Confidentiality

10.1 Disclosure of certain information relating to a Complaint may be required in order for the University to investigate the complaint properly. Accordingly, if consent is withheld to disclose certain information as part of the investigation process, the University may not be able to fairly investigate the Complaint and take action against the person who has been complained about.

10.2 In the interest of not prejudicing the complaint process, the complainant and the person complained about must keep the Disclosure or Complaint process confidential, except for the purpose of obtaining support or advice from their support people, representatives, and relevant agencies.

10.3 Advice from the Student Interest and Conflict Resolution or Employment Relations teams can be sought on any concerns about confidentiality requirements.

11. Reports to the Police

- 11.1 The University supports the right of Students and Staff Members who have experienced sexual harassment to decide whether they want to report the incident to the police, or not.

Note: Students and Staff Members may also elect to contact the New Zealand Human Rights Commission to make a Complaint under the Human Rights Act 1993. Staff Members may also take action under their employment agreement or the Employment Relations Act 2000. In particular, a Staff Member may raise a personal grievance for sexual harassment. They have 12 months to do so from the time the event occurred or came to their notice.

- 11.2 A Student or Staff Member may decide to make a Disclosure or Complaint to the University, but not report the incident to the Police. Alternatively, a Student or Staff Member may decide to report sexual harassment to the Police, but not to make a Disclosure or Complaint to the University.
- 11.3 A Student or Staff Member's decision to make a report to the Police will not necessarily preclude the University from investigating or taking action in response to sexual harassment. However, any internal University process may have to be suspended pending completion of the criminal process.
- 11.4 When deciding whether to suspend an internal process pending completion of a criminal process, the University will consult the Police and the complainant and will consider:
- (a) the potential for the internal process to impede or contaminate the criminal process;
 - (b) the potential for the criminal process to impede or contaminate the internal process; and
 - (c) whether investigating or responding to the incident has the potential to impact adversely on the rights of either or both of the parties involved.

12. Active bystander intervention

- 12.1 The University encourages and values safe active bystander intervention to prevent or stop sexual harassment.
- 12.2 The steps involved in safe active bystander intervention include:
- (a) noticing the situation – paying attention to what is going on nearby;
 - (b) deciding if it is a problem – considering whether someone might need help, and checking with people around if unsure;
 - (c) accepting responsibility to take action – not assuming someone else will do something;
 - (d) making a plan to step in – indirectly or directly confronting the issue, without being aggressive or putting oneself or others in danger.

13. No victimisation

- 13.1 A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person:
- (a) having been involved with a Disclosure or a Complaint;
 - (b) providing information about a Disclosure or a Complaint;
 - (c) supporting a Student or Staff Member who has made a Disclosure or Complaint; or
 - (d) engaging in safe active bystander intervention.

14. Opportunity to be heard

- 14.1 Complaints will be dealt with as soon as practicable in a way that supports whakaoranga –

- (a) in accordance with the Student Conduct Statute or the Staff Conduct Policy; and
 - (b) sensitively, fairly, confidentially, and with a minimum of disruption, while following the principles of procedural fairness and natural justice.
- 14.2 Complainants will have a reasonable opportunity to state a Complaint orally and in writing and the person complained about will have a reasonable opportunity to respond to a Complaint orally or in writing. Both complainants and the person complained about will be given a reasonable opportunity to provide any documents relevant to the complaint.
- 14.3 Complainants and the person complained about may be accompanied to any meeting by a support person.
- 14.4 At no time will the complainant and the person complained about be required to meet with or participate in any activity with one another unless both have previously given their informed consent.

15. Interim measures

- 15.1 Interim measures may be put in place following a Complaint in accordance with the procedures set out in the Student Conduct Statute and Staff Conduct Policy (and its supporting Guidelines, as listed below).

16. Vexatious Disclosures and Complaints

- 16.1 A Student or Staff Member must not make a vexatious or malicious Disclosure or Complaint.
- 16.2 For the purposes of this Policy, a Disclosure or Complaint will be considered vexatious or malicious if the Student or Staff Member makes it:
 - (a) knowing it to be false; and
 - (b) for the primary purpose of damaging the person against whom the Complaint is made or the University.

17. Breaches

- 17.1 The University may take disciplinary action in accordance with the Student Conduct Statute or the Staff Conduct Policy against any Student or Staff Member who is involved in a breach of this Policy.

18. Recordkeeping and reporting

- 18.1 The University will:
 - (a) keep records of all Disclosures and Complaints in a secure location;
 - (b) keep records of its communications with University-owned or -affiliated student accommodation about reported instances of sexual harassment occurring at, or in connection with, them; and
 - (c) subject to the confidentiality requirements specified in clause 10 above, and the University's obligations under the Privacy Act 2020, allow reasonable access by Students and Staff Members to information about themselves.
- 18.2 Disclosures made by Students will be held by the Student Interest and Conflict Resolution team and Disclosures made by Staff Members will be held by Human Resources.
- 18.3 Access to information relating to Disclosures and Complaints will be restricted to University Staff Members who need to access and use the information in order to give effect to this Policy and other relevant policy documents and any other relevant laws or statutory obligations.

19. Definitions

In this Policy, unless the context otherwise requires:

Complaint	means a complaint of sexual harassment
Disclosure	means a disclosure of sexual harassment
Members of the University Community	means staff members, students, independent contractors, adjunct and visiting staff, visiting scholars and interns, professors emeriti and any other persons providing services to the University.
Natural Justice	means that the University will follow the processes set out in the Staff Conduct Policy and Student Conduct Statute a) to ensure that any person suspected of breaching this Policy is given a reasonable opportunity to respond before any finding is made and b) to ensure any decision-maker is impartial, free from bias, and has not made any predetermination.
Sexual Harassment	has the definition given under clause 6.1
Staff Member	means an employee of the University
Student	means a person enrolled in any course or programme offered by the University, including those studying under an exchange agreement or a person who is studying at the University under an exchange agreement with another institution, and includes a resident in a Hall of Residence
Visitor	means a person other than a Staff member or Student

Related Documents and Information**20. Related Documents**

[Education and Training Act 2020](#)
[Victoria University of Wellington Act 1961](#)

[Employment Relations Act 2000](#)
[Human Rights Act 1993](#)
[Privacy Act 2020](#)

[Conflicts of Interest Statute](#)
[Guidelines for Addressing Alleged Misconduct](#)
[Guidelines for Managing Performance Issues](#)
[Sexual Harassment Response Procedures](#)
[Staff Conduct Policy](#)
[Guidelines for Resolving Alleged Misconduct](#)
[Student Conduct Statute](#)
[Te Tiriti o Waitangi Statute](#)

21. Document Management and Control*Essential Record*

Approver	Tumu Whakarae – Vice-Chancellor
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Policy Sponsor	Tumu Maruaia – Provost Director, People and Capability
Policy Owner	Manager, Student Interest and Conflict Resolution Extension 5023 Deputy Director, Human Resources 5198

Modification History

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8 August 2023	Tumu Whakarae – Vice-Chancellor	Full review.