
Sexual Harassment Response Policy

Purpose

The University does not tolerate any form of sexual harassment. The purpose of this Policy is to help give effect to the University's core ethical values and promote an environment in which sexual harassment is unacceptable and where individuals have the confidence to complain about such behaviour should it arise, in the knowledge that their concerns will be dealt with appropriately and fairly. The University is committed to preventing this behaviour from occurring and to protecting the rights of all 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.

1. Organisational Scope

This Policy applies to Members of the University Community and is supported by the Sexual Harassment Response Procedures and the online Guidance located at www.wgtn.ac.nz/sexual-harm-students (students) and www.wgtn.ac.nz/sexual-harm-staff (staff).

2. Operation of Policy

This Policy:

- (a) prohibits sexual harassment by Members of the University Community;
- (b) applies to conduct connected with a Student or Staff's Member's status as a Member of the University Community;
- (c) protects the safety and welfare of Students and Staff Members disclosing or complaining about sexual harassment;
- (d) sets out the meaning of sexual harassment;
- (e) explains the difference between Disclosures and Complaints;
- (f) explains the difference between Complaints to the University and reports to the Police;
- (g) encourages safe active bystander intervention;
- (h) sets out the principles applicable to Disclosures and Complaints; and
- (i) supports the University's values of inclusion and diversity, and respect and integrity

Part 2: Policy Content

3. The Policy

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

4. Emergency and ongoing support and assistance

- 1) If Students or Staff Members are concerned for their immediate safety or the immediate safety of someone else they should contact the Police on 111.
- 2) Campus Security also maintain a 24 hour presence on campus to ensure safety and security. To report an emergency, Campus Security can be contacted on 0800 842 8888 from an external phone or 888 from an internal phone.

- 3) The University is committed to supporting Students and Staff Members through the Complaints and Disclosures process and contact details for ongoing support and assistance for Students and Staff Members are set out at in the Appendices to the Sexual Harassment Response Procedures.
- 4) Students and Staff Members who have experienced sexual harassment may seek assistance and support from a Member of the University's Community that they trust.

5. Meaning of sexual harassment

- 1) Sexual harassment is unwelcome or offensive sexual behaviour that is repeated or is significant enough to have a harmful effect on an individual's wellbeing. Unwelcome means behaviours that are not solicited or invited and are regarded by a person as undesirable or offensive at the time.

Examples of sexual harassment:

- 2) Below are some examples of behaviours that can constitute sexual harassment if they meet the definition in clause 6(1) above:
 - inappropriate touching, hugging, encroaching on someone's personal space or kissing
 - inappropriate staring or leering
 - insults or taunts of a sexual nature
 - unwanted invitations to go out on dates, particularly if those are repeated after a previous invitation has been declined
 - requests for sexual favours, or pressure for sex or other sexual acts
 - repeated or inappropriate advances of a sexual nature on email or social networking websites
 - direct or indirect requests for sexual activity that contain an implied or express promise of preferential treatment or threat of detrimental treatment
 - intrusive questions or comments about a person's private life, clothing or physical appearance
 - sexually explicit pictures, posters, gifts, emails or text messages
 - sexual gestures, indecent exposure, or inappropriate display of the body
 - sexually suggestive comments or jokes, or other forms of inappropriate language
 - stalking or 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.

6. Difference between Disclosures and Complaints

- 1) Students and Staff Members who have experienced sexual harassment have a right to decide whether they want to make a Disclosure and/or a Complaint or not.
- 2) Students and Staff Members can make a Disclosure (rather than a Complaint) if they do not want the University to investigate or to take any specific action in response to the incident, but simply wish for it to be recorded by the University as 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.

- 3) Students and Staff Members who choose to make a Disclosure may later decide to make a Complaint about the same incident. The University will provide guidance about how to make a Complaint.
- 4) Students and Staff Members who have experienced sexual harassment can make a Complaint (rather than a Disclosure) if they want the University to investigate or to take specific action.

7. Disclosures of sexual harassment

Making a Disclosure

- 1) A Student or Staff member who has experienced 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 Procedures.

Anonymous Disclosures

- 2) Students and Staff Members can make a Disclosure anonymously through the specified contact methods set out in clause 4 of the Sexual Harassment Response Procedures.

Confidentiality of Disclosures

- 3) The University will treat all Disclosures confidentially, and:
 - (a) will not investigate and consider taking formal action in relation to a Disclosure unless:
 - (i) there appears to be a serious and imminent threat to the complainant's life or health, or to that of another individual; or
 - (ii) one or more other 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; and
 - (b) will inform the complainant before commencing an investigation and considering formal action in relation to a Disclosure, if the Disclosure has not been made on an anonymous basis.
- 4) After consultation with the complainant, the person complained about may be advised, informally, that a Disclosure has been made about them in order to effect behavioural change. If there is a reasonable risk that the complainant could be identified, this action will not be taken without the permission of the complainant.
- 5) The University will otherwise use information contained in Disclosures on a deidentified basis to identify trends and to develop targeted responses to incidents of reported sexual harassment in the University Community.

8. Complaints of sexual harassment

Making a complaint

- 1) A Student or Staff Member who has experienced sexual harassment can make a Complaint through using any of the contact methods set out in clause 5 of the Sexual Harassment Response Procedures.
- 2) Any person who makes a Complaint on behalf of a Student or Staff Member must first obtain the explicit permission and consent of the Student or Staff Member concerned to do so and must make it clear when lodging the Complaint on whose behalf the Complaint is being made.
- 3) Where a person has made a Complaint with the permission and consent of the Student or Staff Member concerned, the complainant will be contacted and may be required to engage in the investigation and Complaint process.

Complaints process

- 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 the allegations in the Complaint and to properly respond to the complaint; or
 - (b) there is independent evidence supporting the Complaint and the allegation can be tested fairly.
- 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.
- 6) The University will handle Complaints in accordance with the Sexual Harassment Response Procedures and the Student Conduct Statute or the Staff Conduct Policy.
- 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 the University community (such as issuing a trespass notice) where satisfied that it is appropriate to do so.

9. Confidentiality

- 1) Except as provided in clause 8(3), or as required by law, the University will keep confidential all identifying information relating to a Disclosure or Complaint unless the complainant consents to disclosure of part or all of the information for a specified purpose.
- 2) Disclosure of certain information relating to a Complaint may be required in order for the University to properly investigate the complaint. Accordingly, if consent is withheld to Disclosure of 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.
- 3) The complainant and the person complained about must keep the Disclosure or Complaints process confidential.
- 4) Complainants and the person complained about may disclose information regarding the Complaints or Disclosure process in order to obtain support or advice from their support people and relevant agencies.

10. Reports to the Police

- 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.

- 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.
- 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.

- 4) When deciding whether to suspend an internal University 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 the complainant or the person complained about.

11. Active bystander intervention

- 1) The University encourages and values safe active bystander intervention by Members of the University Community to prevent or stop sexual harassment from occurring or continuing.
- 2) The steps involved in safe active bystander intervention are:
 - (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.

12. No victimisation

- 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.

13. Opportunity to be heard

- 1) Complaints will be resolved:
 - (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.
- 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 have a reasonable opportunity to provide any documents relevant to the complaint.
- 3) Complainants and the person complained about may be accompanied to any meeting by a support person, if they wish.

- 4) At no time will the complainant and the person complained about be required to meet with or to participate in any activity with one other, unless they have both given their prior informed consent.

14. Interim measures

- 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.

15. Vexatious Disclosures and Complaints

- 1) A Student or Staff Member must not make a vexatious or malicious Disclosure or Complaint.
- 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.

16. Breach of this Policy

- 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.

17. Recordkeeping and reporting

- 1) The University will:
 - (a) keep appropriate records of all Disclosures and Complaints in a secure location;
 - (b) keep appropriate records of its communications with University owned or affiliated student accommodation about Disclosures and Complaints occurring at, or in connection with, them; and
 - (c) subject to the confidentiality requirements specified in clause 10 above allow reasonable access by Students and Staff Members to information about themselves.
- 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.
- 3) The University will collect, store and use de-identified information about Student and Staff Member Disclosures and Complaints to identify trends and to develop targeted responses to sexual harassment in the University Community.
- 4) Access to information relating to a Disclosure or Complaint will be restricted to University staff who have a need to access and use the information in order to give effect to this Policy or the Sexual Harassment Response Procedures.

18. Definitions

For the purposes of this Policy, the following definitions will apply:

Complaint A complaint of sexual harassment

Disclosure A disclosure of sexual harassment

Members of the University Community

All Staff Members and Students of the University, staff members of Victoria Link Limited, independent contractors to the University, adjunct and visiting staff, visiting scholars and interns, emeritus professors and any other persons providing services to the University

Sexual Harassment As defined in clause 6(1)

Staff Member An employee of the University

Student Any person enrolled in a personal course of study at the University, 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

University Victoria University of Wellington

Visitor A person other than a Staff Member or Student

Related Documents and Information

19. Related Documents

Conflict of Interests Statute

Sexual Harassment Response Procedures

Staff Conduct Policy

Staff Guidelines for Resolving Alleged Misconduct

Student Conduct Statute

Education Act 1989

Employment Relations Act 2000

Human Rights Act 1993

Privacy Act 1993

20. Document Management and Control

Approval Agency	Vice-Chancellor
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Sponsors	Provost and Director, Human Resources
Contact Persons	Manager, Student Interest and Conflict Resolution Extension 5023 Deputy Director, Human Resources Extension 5198