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| Institution | Universal Higher Education (UHE) |
| Policy name | Sexual Assault/Harassment Policy and Procedure |
| Policy Governance | Academic Board |

Purpose

This policy affirms Universal Higher Education’s commitment to:

- A. creating a safe and respectful environment for work and study for all members of the UHE 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

Scope

This policy applies to all members of the UHE 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 UHE

Definitions

Consent

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:

- the person is under the lawful age of consent as specified in the applicable criminal code or legislation
- the person agrees because of force, the threat of force, or the threat of humiliation
- the person is unlawfully detained
- the person is asleep or unconscious
- the person is intoxicated to the point of being unable to give meaningful consent
- the person is incapable of understanding the nature of the activity
- the person has a mistaken belief about the identity of the other person, or
- the person is mistaken about the nature of the activity.

Sexual Harassment

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. Examples of sexual harassment include:

- non-consensual physical contact, such as pinching, touching, grabbing, kissing or hugging
- sexual assault
- staring or leering at a person or at parts of their body
- persistent requests to go on dates that are refused
- suggestive comments about a person's body or appearance
- sexual jokes or comments and sexually explicit conversations
- displays of offensive material
- accessing or downloading sexually explicit or inappropriate material from the Internet
- sending rude or offensive emails, attachments or text messages (including pictures of body parts)
- advances via online platforms
- intrusive questions about a person's private life or physical appearance
- disclosure of a person's private personal information without their permission
- sexually explicit gifts

Sexual assault

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:

- rape
- indecent assault (sexual acts that involve touching)
- any sexual contact with a child
- sexual servitude
- forcing someone to witness a sex act.

UHE community

For the purposes of this policy, UHE community includes:

- enrolled UHE students,
- employees and exchange staff
- employees of controlled entities, Centers and Institutes, and affiliated clubs and associations
- contractors and consultants performing work on UHE sites or on behalf of the UHE
- visiting academics or persons with academic status
- the Council and its committees
- any volunteer in the workplace and study environment.

Work- and study-related activities

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 UHE. This includes activities that take place away from UHE 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.

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 UHE.
- C. All sexual harassment and sexual assault is misconduct or serious misconduct as defined by the UHE, and the UHE's policies and procedures on staff and student conduct, and will be responded to accordingly.
- D. The priority of the UHE in addressing matters of sexual harassment and sexual assault is the safety and wellbeing of the person who experienced the behaviour. UHE 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 UHE 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 UHE will provide sensitive and appropriate mechanisms so that all members of the UHE community can be supported and enabled to obtain help if they experience sexual harassment and/or sexual assault

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 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).

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 law of the state, which take place without a person's consent, or where their consent has been obtained through deception or coercion, or where consent is withdrawn.

UHE's expectations

- A. All members of the UHE community have the right to work and study in an environment free of sexual harassment and sexual assault. This means individuals including witness have the right to:
- i. Fully expect UHE to work to create an environment free of sexual harassment and sexual assault 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 always be treated with appropriate confidentiality
 - v. make decisions about how they wish to progress the matter, with the proviso that the UHE may still act if it is necessary to protect the UHE community or any of its members
 - vi. expect that the UHE will act about 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.
- B. All members of the UHE 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. not subject any person who has made a report or against whom a report has been made to any form of recrimination
 - vi. not make false or vexatious allegations of sexual assault or harassment against another person.

Reporting sexual harassment and sexual assault

- A. Any member of the UHE 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 UHE. Staff are also strongly encouraged to report any incident that they witness or become aware of.
- B. UHE 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 a disclosure and is not treated as a complaint unless the person proceeds to making a complaint.
- D. UHE's processes for receiving and responding to reports is described in the Sexual Harassment and Sexual Assault Response Procedures.

Interim action

If UHE judges it necessary to protect the safety and wellbeing of the UHE 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 UHE (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 parts of campus (although students may be enabled to continue studies online if practical).

Ongoing support

After a matter has concluded, the UHE 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.

Recordkeeping and reporting

UHE 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.

Sexual Harassment and Sexual Assault Response Procedures

Sexual harassment and sexual assault reports

Any member of UHE community who experiences sexual harassment or sexual assault is strongly encouraged to report the matter to UHE, even if they are uncertain of whether they wish to make a complaint.

Reports can be made in person, over the phone or via the online reporting form. Reports made in person or over the phone may be made to:

- i. Student Equal Opportunity Advisors (for students)
- ii. relevant People or admin officer e.g. Executive Manager, Dean (for staff members)

Third-party reports

- a) Reports may also be made by people who believe they may have witnessed sexual harassment or sexual assault or have received reports from another person that sexual harassment or sexual assault may have taken place using the online reporting form.
- b) Third-party reports are not mandatory (except where the person who experienced the behaviour is under 18 years of age), but staff are strongly encouraged to report any incident that they witness or become aware of.

- c) Where a report is made by a third party, the person making the report will be asked to confirm:
 - i. whether they have spoken to the person that experienced the sexual harassment or sexual assault and communicated their intention to make a report
 - ii. whether the person that experienced the sexual harassment or sexual assault has given their permission to be named in the report.
- d) Where the person has not given their permission to be named, only a deidentified report can be made.

Making a report

- A. When a report is first made, it is a disclosure.
- B. A report is not a complaint and is not investigated as one. A person who makes a report may or may not proceed to make a complaint.
- C. Reports by any person are always treated with appropriate confidentiality. This means that they are not shared with anyone unless required by law or professional registration requirements or required for the UHE to take necessary action.
- D. Reports are not shared with the individual about whom the report is made, unless the UHE proposes to take some action about the report that will affect that individual.
- E. The person who experienced the sexual harassment or sexual assault will be contacted to offer support and discuss options, unless they have indicated in their report that they do not wish to be contacted. Contact will be made by a:
 - i. Student Support officer (if the person who made the report is a student or the report involves a student)
 - ii. relevant People and managers e.g. Executive manager, deans (if the person who made the report is a staff member)
- F. The person who experienced the sexual harassment or sexual assault has four options:
 - A. request the UHE take protective or supportive action, where reasonable, without prejudice, and/or
 - B. make a formal complaint to the UHE, and/or
 - C. make an external complaint (e.g. police report), or
 - D. take no further action.
- G. People may choose to both make a UHE complaint and make an external complaint. If they opt to make a police report, it is strongly advised that they also make a UHE complaint to enable UHE to take protective action while the police matter is underway.
- H. UHE will support the person who experienced sexual harassment or sexual assault in their preferred course of action, and will provide assistance in lodging a complaint if this is helpful to and wanted by the person (while noting that a complaint must always be presented in the person's own words).
- I. The Student Support officer or relevant People and Executive Manager may recommend that interim action is taken in accordance with the policy to assist with the safety and wellbeing of the person who experienced sexual harassment or sexual assault or any other person.
- J. The use of any interim measures will be determined, after consideration of all the factors, by:
 - A. the Chief Academic Officer where the affected individual is a student

- B. the Executive manager, where the affected individual is an employee or other nonemployee worker.
- K. If the Executive Manager or the Chief Academic Officer determines that it is necessary to take any action arising from a report in order to protect the safety and wellbeing of UHE community, this action and the reasons for it will be explained to the person who made the report

Complaints

- A. If a person who has experienced sexual harassment or sexual assault decides, after reporting, that they wish to make a formal complaint to UHE, their complaint will be managed in accordance with the:

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| i | If the complainant is a student | Student Complaints and appeals Policy and Procedures, except for the process for the lodgement of the complaint. Upon confirmation from the student that they wish to make a formal complaint, the Student support officer will assist the student to prepare the complaint in their own words and will manage the lodgement of the complaint to UHE on the student's behalf. The principles and processes of the Student Complaints appeals, and procedures apply thereafter. |
| ii | If the complainant is not a student, but the respondent is a student | Student Conduct and associated policy procedures |
| iii | If the complainant and respondent are both staff | Staff contract and associated policy procedures |
| iv | If the complainant is another member of UHE community (i.e. not an employee or a student) | Report is to be referred to the Chief Academic Officer, Executive Manager |

- B. Where the person about whom a complaint is made is not an employee or student, UHE will advise the complainant of the limitations of any sanctions that the UHE can impose.
- C. With sexual assault matters, the UHE will advise the complainant of the limitations involved in making a UHE complaint without also making a police report, and ensure that they understand their options as fully as possible.
- D. In the case that a complainant does not wish to take further action, UHE may at its discretion determine that it is necessary to take action in order to protect the safety and wellbeing of the UHE community. This action and the reasons for it will be explained to the person who made the complaint.
- E. Where a matter is reported to police or any other external agency, the UHE will cooperate fully with the external inquiry. Any internal action being undertaken in relation to a complaint may be

paused if such action could compromise a police investigation of a criminal matter or prejudice the prosecution or defence in a criminal process.

Records of sexual harassment and sexual assault

- A. UHE maintains a record of all reports of sexual harassment and sexual assault. Information recorded includes:
- i. the alleged behaviour
 - ii. the location and circumstances of the behaviour
 - iii. steps taken to respond to the incident
 - iv. support or assistance offered and received
 - v. the time taken to respond
 - vi. any feedback from the discloser / complainant or respondent, and
 - vii. only if consent has been given, the name of the discloser / complainant.
- B. If the matter has proceeded to a complaint, records relating to the investigation of the complaint, and any sanctions imposed, will also be maintained within the relevant complaints management framework and managed in accordance with the Privacy Policy.

Support system

Victoria

1. **Sexual Assault Crisis Line**
Crisis Line: 1800 806 292 (free call)
Administration: (03) 9344 2725 / (03) 9344 2744
Fax: (03) 9344 2726
Email: ahcasa@thewomens.org.au
www.sacl.com.au
2. **CASA Forum**
Lists Victorian Centres Against Sexual Assault
www.casa.org.au
3. **Bravehearts Victoria**
1800 272 831 or
Shepparton Education Team: (03) 5831 2797 or Fax (03) 5831 1996
www.bravehearts.org.au
4. **National Sexual, Domestic and Family Violence Counselling Service**
1800 737 732 or 1800 (RESPECT)
<https://www.1800respect.org.au/>
5. Access UHE Counselling by making an appointment through the Student Portal