



# Sexual Harm Prevention and Response Policy

## Section 1 - Preamble

(1) This Policy is effective from 20 December 2024.

## Section 2 - Purpose

(2) This Policy outlines the University's commitment and proactive approach to preventing sexual harm and the support available at the University in responding to sexual harm.

## Section 3 - Scope

(3) This Policy applies to students, staff and associates of the University.

(4) This Policy applies to recent and/or historical sexual harm regardless of where an incident(s) has occurred. This includes where sexual harm has occurred off-campus or via online platforms.

(5) This Policy does not apply to sexual harm relating to children. Reports of sexual harm relating to children are managed through the [Child Safety Policy](#).

(6) Sexual harm that occurs in the context of domestic and family violence will be responded to in accordance with the [Family Violence \(Staff and Student Support\) policy](#).

## Section 4 - Policy

### What is Sexual Harm?

(7) The University defines sexual harm as sexual assault (including rape), any other behaviour of a sexual nature which is a crime in Australia, sexual harassment, and any behaviour of a sexual nature that may constitute student or staff misconduct. This extends to any behaviour of a sexual nature which is a crime in International Branch Campus locations. Examples of behaviours and actions that constitute sexual harm are in section 6 of this Policy.

### Prevention and Proactive Action

(8) The University is committed to providing a learning, work and social environment that is free from sexual harm.

(9) The University does not tolerate behaviour that constitutes sexual harm and considers such behaviours in breach of the [Student Code of Conduct](#) and/or the Staff [Code of Conduct](#).

(10) The University aims to prevent sexual harm by:

- a. providing regular education, training and communication
- b. setting clear and uncompromising standards of behaviour and strengthening our culture to be inclusive, safe

- and respectful and uphold the behaviours set out in the [Student Code of Conduct](#) and the Staff [Code of Conduct](#)
- c. encouraging students, staff and associates to disclose and provide information regarding any incident of sexual harm
  - d. promoting and encouraging active bystander intervention
  - e. informing and empowering students, staff and associates to respond compassionately and effectively to any information they receive in relation to sexual harm, and to attitudes and behaviours which contribute to sexual harm
  - f. ensuring education, training and resources meet the needs of the diverse University community and higher risk cohorts
  - g. partnering and collaborating with external agencies
  - h. implementing precautionary measures when required.

(11) The University provides training on the prevention of, and response to, sexual harm for students and staff. This includes targeted training for staff with honours or higher degree by research supervisory responsibilities and for staff who are student-facing and/or are likely to receive disclosures of sexual harm.

## **Accountability and Responsibility**

(12) All students, staff and associates have a responsibility to:

- a. foster a study, work and social environment free from sexual harm, where all members of the University community are treated with dignity, courtesy and respect and to uphold the behaviours set out in the [Student Code of Conduct](#) and Staff [Code of Conduct](#)
- b. engage in bystander action when safe to do so and follow reasonable directions by the University to reduce health and safety risks
- c. respond in a compassionate, empathetic and supportive manner to any person who discloses that they have experienced, witnessed or have information about sexual harm and to actively support the person to connect with the University's Safer Community. Information on how to respond to disclosures of sexual harm is available on the Deakin's Receiving a sexual harm disclosure webpage.

(13) In addition to the responsibilities set out in clause 12, all Leaders have a responsibility to:

- a. monitor students, staff and associates to ensure they comply with the University's behavioural standards as set out in the [Student Code of Conduct](#) and Staff [Code of Conduct](#)
- b. model appropriate behaviour, including bystander action, when safe to do so
- c. promote this Policy and relevant procedures within their work areas.

## **Responding to Sexual Harm**

(14) Students, staff and associates can contact the University's [Safer Community](#) about an incident/s of sexual harm in order to seek support and/or to make a report or complaint.

(15) [Safer Community](#) will respond and provide advice and support to students, staff and associates in relation to any matter involving sexual harm, regardless of whether a subsequent report or complaint is made.

(16) Students, staff and associates can provide information to Safer Community Services about an incident/s of sexual harm anonymously and can choose not to identify the other person/people involved. The University's ability to respond may be impacted if the information provided is incomplete.

(17) [Safer Community](#) will respond to any information provided by an individual/s relating to sexual harm by:

- a. focusing on their needs and supporting them to make informed decisions
- b. taking a compassionate, empathetic and supportive approach which, where possible, avoids further distress or trauma
- c. coordinating all internal University supports and assisting engagement with external specialist support and response services (where requested)
- d. undertaking other actions in accordance with the [Sexual Harm Response Procedure](#) or the [Sexual Harassment Response Procedure – GIFT City, India](#) (where requested).

(18) The University is not able to investigate instances of sexual harm for the purposes of determining if a crime has occurred. This is the responsibility of the Police should a student, staff member or associate choose to report this externally. For the purposes of clarity, this clause does not prevent the University from investigating instances of sexual harm for the purpose of determining if a breach of the Staff [Code of Conduct](#) or [Student Code of Conduct](#) has occurred.

(19) Subject to consideration of the wishes of the person reporting the sexually harmful behaviour students and staff will be held accountable for their behaviour and appropriate disciplinary action may be taken.

(20) [Safer Community](#) will work with other areas of the University to determine the appropriate actions and response for any sexual harm matters involving associates.

## **Victimisation**

(21) A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person raising, providing information about, or otherwise being involved in the support of an individual who has experienced sexual harm. The University's [Complaints: Discrimination, Harassment, Victimisation and Vilification \(Staff\) Procedure](#) and [Student Complaints Resolution policy](#) provide processes for responding to allegations of victimisation.

## **Privacy, Confidentiality and Record keeping**

(22) [Safer Community](#) will collate and maintain disclosures, reports or complaints about sexual harm in a confidential register. All information will be collected, stored and accessed in accordance with the University [Privacy policy](#) and [Information and Records Management Policy](#).

(23) The University will use information about instances of sexual harm on a de-identified basis to identify trends and develop targeted responses to sexual harm in the University community.

## **Section 5 - Procedure**

(24) The [Sexual Harm Response Procedure](#) documents how the University will respond to information provided in accordance with this Policy.

(25) The [Sexual Harassment Response Procedure – GIFT City, India](#) documents how the University will respond to sexual harm and or harassment against women based at Deakin's International Branch Campus in GIFT City, India.

## **Section 6 - Definitions**

(26) For the purpose of the Policy:

- a. Associate: Contractors, consultants, volunteers, visiting appointees and visitors to the University.
- b. Behaviour of a sexual nature which is a crime in Victoria: As defined by the Crimes Act (Vic) Sections 38-48, the

Summary Offences Act (Vic) Sections 19 and 41A – 41DB and the Enhancing Online Safety Act (Cth) Part 5A, other than sexual assault (including rape).

- c. Child: A person who is under the age of 18 years
- d. Consent: As defined in Section 36 of the Crimes Act 1958 (Vic), consent means free agreement. Circumstances in which a person does not consent to an act include, but are not limited to, the following:
  - i. the person submits to the act because of force or the fear of force, whether to that person or someone else
  - ii. the person submits to the act because of the fear of harm of any type, whether to that person or someone else or an animal
  - iii. the person submits to the act because the person is unlawfully detained
  - iv. the person is asleep or unconscious
  - v. the person is so affected by alcohol or another drug as to be incapable of consenting to the act. This circumstance may apply where a person gave consent when not so affected by alcohol or another drug as to be incapable of consenting.
  - vi. the person is incapable of understanding the sexual nature of the act
  - vii. the person is mistaken about the sexual nature of the act
  - viii. the person is mistaken about the identity of any other person involved in the act
  - ix. the person mistakenly believes that the act is for medical or hygienic purposes
  - x. if the act involves an animal, the person mistakenly believes that the act is for veterinary or agricultural purposes or scientific research purposes
  - xi. the person does not say or do anything to indicate consent to the act
  - xii. having initially given consent to the act, the person later withdraws consent to the act taking place or continuing.

Clear and unambiguous agreement must be expressed outwardly through mutually understandable words or actions. Consent must be voluntarily given and can be withdrawn by any party at any point. Consent to engage in one sexual activity or past agreement to engage in a particular sexual activity cannot be presumed to constitute consent to engage in a different sexual activity or to repeat a sexual activity.

The ability to provide consent may be influenced by a person's position of vulnerability and/or a differential in power or trust relative to another person – for example, if a staff member were to pursue, or attempt to pursue, a sexual relationship with a student.

- e. Higher risk cohorts: includes, but is not limited to, those at higher risks of experiencing sexual harm due to their circumstances such as students in residential settings (including organised tours or trips), or students, staff or associates at higher risk of experiencing sexual harm or who face additional barriers to reporting and accessing support services because of the discrimination they may experience due to their attributes such as being LGBTIQ+ , Aboriginal and Torres Strait Islander, a person with a disability.
- f. Precautionary measures: Precautionary measures imposed to protect the wellbeing and safety of individual involved in any sexual harm matter or any other member of the University community.
- g. Rape: As defined in the Crimes Act 1958 (Vic) Section 38, rape is where a person:
  - i. intentionally sexually penetrates another person; and
  - ii. the person who was penetrated did not agree or consent to the penetration; and
  - iii. does not reasonably believe that the person they penetrated consented to the penetration.
- h. Report or complaint: a report, which may include a student misconduct allegation or complaint is a request that the University conducts an investigation and takes action. Subject to the nature and severity of the behavior, possible outcomes include an apology, training or change in practice, further disciplinary action against a staff

member or student, or cessation in engagement of an associate.

- i. Safer Community Services: An internal University service that acts as the central point of enquiry for information, advice and support in managing problem behaviours affecting students, staff or associates that have, or could cause offence, fear or trauma (physical and or psychological). This includes providing support and advice to students, staff and associates who have experienced sexual harm.
- j. Sexual Assault: As defined in the Crimes Act 1958 (Vic) Section 40, Sexual Assault means:
  - i. intentionally touching another person and
  - ii. the touching is sexual and
  - iii. the person who was touched did not agree or consent.

Touching could be with any part of the body or with anything else. Sexual assault occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent, including when they have withdrawn consent. This includes rape, sexual penetration and/or sexual touching.

Touching may be sexual due to:

- the area of the body that is touched or used in the touching, including (but not limited to) the genital or anal region, the buttocks or, in the case of a female or a person who identifies as a female, the breasts; or
  - the fact that the person doing the touching seeks or gets sexual arousal or sexual gratification from the touching.
- k. Sexual Harassment: As defined in the Sex Discrimination Act 1984 (Cth) – Section 28A, a person sexually harasses another person (the person harassed) if:
    - i. the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
    - ii. engages in other unwelcome conduct of a sexual nature in relation to the person harassed;
    - iii. in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated. The circumstances to be taken into account include, but are not limited to, the following:
      - the sex, age, sexual orientation, gender identity, intersex status, marital or relationship status, religious belief, race, colour, or national or ethnic origin, of the person harassed;
      - the relationship between the person harassed and the person who made the advance or request or who engaged in the conduct;
      - any disability of the person harassed;
      - any other relevant circumstance.

In this section conduct of a sexual nature includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.

- l. Sexual Harassment as defined under the [POSH Act/Rules](#): Unwelcome sexually tinted behaviour, whether directly or by implication, such as:
  - i. physical contact and advances
  - ii. demand or request for sexual favours
  - iii. making sexually coloured remarks
  - iv. showing pornography
  - v. any other unwelcome physical, verbal or non-verbal conduct of a sexual nature
  - vi. The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:

- implied or explicit promise of preferential treatment in her employment
  - implied or explicit threat of detrimental treatment in her employment
  - implied or explicit threat about her present or future employment status
  - interference with her work or creating an intimidating or offensive or hostile work environment for her
  - humiliating treatment likely to affect her health or safety
- m. Sexual Harm: includes sexual assault, rape, any other behaviour of a sexual nature which is a crime in Australia, sexual harassment and any other behaviour of a sexual nature that constitutes student or staff misconduct.

Examples of behaviours which constitute Sexual Harm include but are not limited to:

- i. threatening sexual assault including strong pressuring or demands for sex or sexual acts
- ii. obscene gestures of a sexual nature such as simulating masturbation
- iii. being forced to watch pornography
- iv. indecent exposure including someone showing or “flashing” their genitals
- v. taking intimate (semi-nude, nude, while participating in sexual activity) digital image, photo or video without consent
- vi. sharing, showing or distributing intimate (semi-nude, nude, while participating in sexual activity) digital image, photo or video without consent.

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	20th December 2024
<b>Review Date</b>	20th December 2029
<b>Approval Authority</b>	Vice-Chancellor
<b>Approval Date</b>	19th December 2024
<b>Expiry Date</b>	To Be Advised
<b>Responsible Executive</b>	Kerrie Parker Deputy Vice-Chancellor, University Services dvc-us@deakin.edu.au
<b>Implementation Officer</b>	Mel Martinelli Executive Director, Diversity, Equity and Inclusion +61 3 52278487
<b>Enquiries Contact</b>	Safer Community +61 3 92443734