

Sexual Harm Response Procedure (Students)

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Purpose

This procedure outlines the choices, supports and steps available to students disclosing or reporting sexual harm. It also defines available actions the university may undertake in response to a disclosure or report of sexual harm.

This Procedure aims to assist the University to meet its obligations, as set out within the State and Commonwealth legislative frameworks to provide a learning and working environment that is free from sexual harm. It aims to provide a clear and transparent process to enable breaches of the University's [Equal Opportunity and Valuing Diversity Guidelines](#) and the [Student Code of Conduct](#) to be responded to respectfully, fairly and expeditiously.

This procedure supports the operationalisation of the Federation University [Students and Support for Students Policy](#) and Federation University (Students) Regulations 2022.

The University recognises reporting, disclosing and seeking support can be difficult. There are many supports available to students through Student Equity and Safer Communities. Some of these are listed on the Federation University [Student Equity and Safer Communities page](#).

Where a report or disclosure of sexual harm relating to children under 18 years is received, this procedure must be read in conjunction with the University's [Child Safe Procedure](#). The [Child Safe Procedure](#) will take precedence

Scope

This Procedure applies to current students who are the complainant or respondent in an allegation of sexual harm. This Procedure should be used where there is a report or disclosure of sexual harm in any University situation, facility or activity. Such situations and activities may extend beyond University campuses and day-to-day activities e.g., placement, field trips, conferences, events and functions, student senate/club/volunteer activities and University residences.

There is no limit placed on the time it may take for a person choosing to disclose or report. The options and actions available to both the person disclosing/reporting and the University, however, may be impacted by how much time has lapsed.

Students studying at third-party providers should be aware that all third-party providers are contractually bound to provide equivalent support and procedural process within their operational structures and should check with their institution and follow those procedures. The relevant legislative context may differ between offshore providers.

Reports made to the University where both the complainant and respondent are staff members will be actioned under the appropriate People and Culture procedure and relevant workplace agreement.

Where a report or disclosure of sexual harm relating to children under 18 years is received, this procedure must be read in conjunction with the University's [Child Safe Procedure](#). The [Child Safe Procedure](#) will take precedence.

Legislative Context

- Federation University Australia Act 2010
- The Federation University [Student Code of Conduct](#)
- The Federation University [Staff Code of Conduct](#)
- The Federation University [Child Safe Procedure](#)
- The Federation University [Discrimination Complaints \(Students\) Procedure](#)
- Crimes Act 1958 (Vic)

Definitions

Term	Definition
Agreed Outcomes	An informal process available to the complainant where they may seek to have the University mediate in requesting agreed behaviours or to refrain from certain behaviours from the respondent (for example requesting that the respondent refrain from contacting or approaching them). This process does not constitute a finding of misconduct and not entered on a respondent's student record. Agreed outcomes may not be deemed an appropriate option where there is a perceived risk to the broader University community.
Complainant	A complainant is a person that makes a disclosure or report of sexual harm. Where the person reporting is a witness, the University will prioritise the wellbeing of the person affected.
Confidentiality	Confidentiality is treating disclosures and reports of sexual harm as private and not sharing information about those matters without the consent of the complainant. If a determination has been made that there is a serious

	safety risk to the complainant or a broader safety risk to the University community, the University may take a decision to consult or escalate the matter and will inform and work with the complainant, and de-identify them where possible.
Disclosure	A disclosure occurs when a person tells another person about their sexual harm experience but does not indicate they would like action to be taken. The person disclosing may be seeking support, advice, and referral or may simply want to talk safely about their experience.
Natural Justice	<p>Natural justice is a concept made up of two rules – the fair hearing rule and the bias rule. This may include, but not be limited by, the following:</p> <ul style="list-style-type: none"> • Prior notice that a decision that may affect a person's interests (the respondent) will be made. • The critical issues to be addressed, and of information that is credible, relevant, and significant to the issues will be disclosed to the respondent. • A substantive hearing with a reasonable opportunity for the respondent to present a case. • The decision maker must not be biased or be seen by an informed observer to be biased in any way. • Whether an oral hearing should be provided will depend on the circumstances but will be provided if a decision cannot be made fairly on written submissions alone. • A respondent will be allowed to attend a hearing with a support person. • Findings will be made by evaluating evidence considering relevance, reliability, and sufficiency. <p>The respondent will be informed of the decision in a timely manner.</p>
Personal Safety Plan	An individualised plan which sets out safety measures, supports and services that the complainant may access for their circumstances. This may include additional security measures within the University, or other agreed measures.
Referral	A referral is a recommendation or introduction to a person or service where further advice, treatment or support can be provided. The choice to access the support provided by the referral remains that of the complainant or respondent.
Report/Reporting	A Report (or Reporting) occurs when a person tells a staff member about a sexual harm experience with the expectation or intent that the University take action or provide support to take action about the matter. This may include support from the University to report externally to police.
Respondent	A respondent is a person or organisation who has a report made against them.
Secondary Consultation	Secondary Consultation is seeking the specialist advice from an internal or external subject matter expert. The complainant will be informed that secondary consultation is being sought and de-identify the complainant and respondent where possible.

Sexual assault	Sexual assault is a broad term that captures any sexual act or attempt to engage in a sexual act where consent (defined below) is not obtained or freely and voluntarily given. This includes unwanted sexual touching. Sexual assault includes acts defined in the Crimes Act 1958.
Sexual consent	A communication freely given either verbally or physically that the person is agreeing to a sexual act or actions. A person might reasonably consider consent has been given if the consent is enthusiastic, without force or coercion, informed, and given throughout the duration of the sexual contact. Consent may be withdrawn at any time and is specific to the time and to the act. A person must be legally able to consent.
Sexual harassment	<p>Sexual harassment is unwelcome, non-consensual sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. Sexual harassment can be in-person, direct (to the person), indirect (to others about the person), verbal, non-verbal, written or online.</p> <p>This may include:</p> <ul style="list-style-type: none"> • comments about a person's private life or the way they look • sexually suggestive behaviour, such as leering or staring • sexually suggestive comments or jokes • image based sexual abuse • displaying offensive screen savers, photos, calendars or objects • repeated requests to go out • requests for sex • sexually explicit emails, text messages or posts on social networking sites • sexually explicit gestures and actions <p>A single incident may constitute sexual harassment.</p>
Sexual harm	Sexual harm behaviours are of a sexual nature that are unwelcome and make another person feel uncomfortable or unsafe. The term sexual harm includes sexual harassment and sexual assault as defined below.

Disclosing and reporting sexual harm

Stage 1 - Initial actions

	Activity	Responsibility	Steps
1.	Support the student who has made the disclosure.	All staff, including students employed by the University in a student leadership capacity	a. If a student discloses sexual harm to a staff member of the University, the staff member should refer to the guideline for making a referral to appropriate support services . This includes guidance to listen, refer and

			<p>support in a confidential manner. Let the person know they can seek support from Student Equity and Safer Communities on the options available to them.</p> <p>b. People have a choice to report or not, unless mandatory reporting is required by law. Your role as a first responder is to provide immediate emotional support and referral to appropriate services.</p> <p>c. If you believe there is a risk of harm to other students or staff you can make a de-identified disclosure to Student Equity and Safer Communities who will advise further.</p> <p>d. Where a disclosure or report of sexual harm is such that there is a clear and present threat or danger, or where there has been serious or life-threatening injury, police or ambulance should be contacted, and if on campus, Federation Security should also be contacted. Disclosure of a recent sexual assault does not constitute a serious or life-threatening injury unless the person harmed is showing signs of injury that require immediate medical attention or is threatening self-harm.</p> <p>e. Disclosure of a recent sexual assault does not constitute a present threat to safety unless the perpetrator is still present and has made further threats to harm or is behaving in a dangerous, violent or threatening way.</p> <p>f. Unless there is an immediate and present threat to safety, respect the choice of the person who has experienced sexual harm and do not call</p>
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			the police or ambulance on their behalf.
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Stage 2 - Seek support

	Activity	Responsibility	Steps
1.	Initiate contact with Student Equity and Safer Communities Team	Student complainant	a. Where a student chooses to contact Student Equity and Safer Communities Team to obtain information and support, decision making remains the right of the student complainant. See confidentiality in definitions.
2.	Provide initial advice and planning	Student Equity and Safer Communities Team	<ol style="list-style-type: none"> 1. Consideration of appropriate safety measures in conjunction with the complainant. 2. Consideration of academic impacts 3. Provide complainant with disclosure and/or reporting options for consideration. This may also include options for reporting externally, including to police. 4. Clarify outcomes sought by the complainant. 5. Consideration of referrals to internal and external support services 6. If a student reports externally to police at any stage of this procedure, the student will be supported by the University through continuity of safety measures and other agreed actions. University actions will not interfere with a police investigation. 7. Where a complainant or respondent identifies as Aboriginal and/or Torres Strait Islander, provide options for engaging the Aboriginal Education Centre into the planning and support.

3.	Recording a student disclosure	Student Equity and Safer Communities Team	<ol style="list-style-type: none"> 1. If the student decides to make a disclosure, Student Equity and Safer Communities will create a case note of disclosure and advise the complainant of options available. 2. Appropriate reasonable safety measures may remain in place, if requested by the student, for an agreed period. 3. The complainant may revisit reporting options outlined in this procedure at any time.
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Stage 3a - Raising a complaint with an informal resolution (no hearing)

	Activity	Responsibility	Steps
1.	Decision to make an informal report	Complainant	<ol style="list-style-type: none"> 1. If the complainant chooses to lodge an informal report, seeking a local, University based resolution, they must notify the Student Equity and Safer Communities Team.
2.	Joint creation of measures to address, where the respondent is a student	Student Equity and Safer Communities	<ol style="list-style-type: none"> 1. Work with complainant and respondent to develop measures and agreed outcomes in response to the matter. 2. Respondent must be offered opportunity to have a support person and to seek advice and support from Student Advocacy or other support service. 3. If parties cannot agree on an informal resolution, the Director, Student Services and Registrar will make a local-level determination that considers the safety and wellbeing of all parties concerned.
3.	Joint creation of measures to address, where respondent is a staff member	People and Culture	<ol style="list-style-type: none"> 1. Where a member of staff or other individuals associated with the University is the respondent,

			<p>People and Culture will advise and lead on the appropriate process regarding the respondent under the relevant enterprise agreement and procedure.</p> <ol style="list-style-type: none"> 2. Student Equity and Safer Communities will continue to work with the student complainant and be the single point of contact for the student in this matter. 3. People and Culture will ensure that Student Equity and Safer Communities are informed of each stage of the process for communications and safety reasons. 4. People and Culture will provide written outcomes to the respondent and Student Equity and Safer Communities.
4.	Communicate outcome to all parties	Student Equity and Safer Communities	<ol style="list-style-type: none"> 1. Written communication provided to student complainant and student respondent outlining agreed measures, outcomes and available support services.

Stage 3b - Raising a complaint with a formal resolution (requiring investigation and/or hearing)

	Activity	Responsibility	Steps
1.	Lodge a formal complaint	Student complainant	<ol style="list-style-type: none"> 1. If the complainant chooses to lodge a complaint, seeking a formal resolution within the University, they must notify the Student Equity and Safer Communities Team, who will support the complainant through the process. 2. Where the matter involves allegations which, if established, might (in the opinion of the University) be sufficient to warrant

			<p>a sanction of exclusion, the matter will be heard by the Student Misconduct Committee (refer to the Student Misconduct Procedure).</p>
2.	Where the respondent is a staff member	<p>People and Culture</p>	<p>a. Where a member of staff is the respondent, People and Culture will advise and lead on the appropriate process regarding the respondent in accordance with the relevant enterprise agreement and procedure.</p> <p>b. Student Equity and Safer Communities will continue to work with the student complainant and be the single point of contact for the student in this matter.</p> <p>c. People and Culture will ensure that Student Equity and Safer Communities are informed of each stage of the process for communications and safety reasons.</p> <p>d. People and Culture will provide written outcomes to the respondent and Student Equity and Safer Communities.</p>
3.	Safer Campuses Recommendation	<p>Student Equity and Safer Communities</p> <p>Chair, Safer Campuses Team</p>	<p>1. Safer Campuses team to review allegations raised by Student Equity and Safer Communities against the respondent and consideration of need for investigation undertaken. Immediate safety measures, including temporary exclusion, are also considered.</p> <p>2. If there is proposed temporary exclusion from student residence or University activities in line with the Students Regulations 53 & 54, after liaison with appropriate University business units, send appropriate communication to appropriate</p>

			Senior Officer for actioning next steps.
4.	Appointing an Investigator	Chair, Safer Campuses Team	<ol style="list-style-type: none"> Where the Safer Campuses Team has recommended an investigation, the Chair will appoint an investigator. Student Equity and Safer Communities is kept informed prior to each stage in order to communicate and support the student complainant. Written communication sent to complainant and respondent outlining appointment of an investigator, detail of the allegations, the process for investigation and available support services. Respondents will be referred to Student Advocacy for support.
5.	Investigation takes place	Investigator	<ol style="list-style-type: none"> Investigator interviews all people relevant to the allegations raised and considers the requested outcomes of the complainant. Investigator obtains specialist advice, if needed. The details of the parties involved in the matter should be de-identified if possible. Investigator prepares a report of findings and recommendations to the Chair, Safer Campuses Team.
6.	Consideration of next steps		<ol style="list-style-type: none"> Director, Student Services and Registrar, or nominee, considers the investigation report and decides if a hearing should be scheduled.
7.	Hearing is conducted and outcome reported	Director, Student Services and Registrar, or nominee	<ol style="list-style-type: none"> Director, Student Services and Registrar, or nominee, conducts a hearing with respondent in accordance with the Principles of Natural Justice and the University's Student Regulations. Respondent may have support person/

			<p>s present. Investigator may be present for clarification of the report and/or process.</p> <ol style="list-style-type: none"> The outcome of the hearing is communicated to the complainant via Student Equity and Safer Communities, both verbally and in writing, whilst maintaining the privacy considerations of the respondent. The respondent and relevant staff action officers will be provided written communication detailing the outcome of the hearing where action needs to occur. Communications to the respondent should include support service options including Advocacy and Counselling, as well as information relating to any applicable internal avenues of review or appeal.
8.	Monitor and Review outcomes	Chair, Safer Campuses	<ol style="list-style-type: none"> Seek reports from action officers to ensure hearing outcomes are implemented. Review and adjust reasonable measures if necessary. Inform Student Equity and Safer Communities of progress and completion of hearing outcomes.

Unsatisfactory complaints handling process

The University aims to resolve complaints, reports and concerns from students and members of the public in a transparent, consistent, fair, and timely manner. If a student believes their sexual harm report has not been handled appropriately, they should follow the process detailed in the Federation University [Complaints Management Procedure](#).

Respondents can appeal the outcome to the Student Appeals Committee by following the [Student Appeals Procedure](#).

A student may wish to lodge a complaint with the [National Student Ombudsman](#). Complaints about the actions and decisions of the University. Complaints may be made to the National Student Ombudsman at no cost.

Responsibility

The Manager, Student Equity and Safer Communities is responsible for the implementation and review of this Procedure.

The Director, Student Services and Registrar as nominee of the Chief Learner Experience Officer, has overall responsibility for the implementation and review of this Procedure.

The Manager, Student Equity and Safer Communities is required to report to the Director, Student Services and Registrar, and the Chief Learner Experience Officer annually on the number and types of complaints reported.

Records management

Student Equity and Safer Communities will keep records of each complaint, including:

- the names of all parties involved;
- a summary of the issue/s raised, including the remedy or outcome sought; and
- accurate and up-to-date file notes of any action, investigation and resolution initiated under this Procedure.

Such records are to remain confidential and held in a restricted area.

In the case of informal resolution, records are to be retained in a restricted area for 7 years.

In the case of a formal resolution, records are to be retained in a restricted area for 15 years.

Supporting documents

- [Students and Support for Students Policy](#)
- [Equal Opportunity and Valuing Diversity Guidelines](#)
- [Information Privacy Procedure](#)
- [Records Management Procedure](#)
- [Responding to Disclosures guideline](#)
- [Staff Code of Conduct](#)
- [Student Code of Conduct](#)
- Federation University Australia (Students) Regulations 2022
 - Part 5 - Student Misconduct

Promulgation

The [Sexual Harm Response Procedure \(Students\)](#) will be communicated throughout the University via:

1. an Announcement Notice under 'FedNews' website and through the University Policy - 'Recently Approved Documents' webpage to alert the University-wide community of the approved Policy;
2. inclusion on the University Policy, Procedure and Forms website; and/or
3. documentation distribution, eg. posters, brochures.