

Student Sexual Harm Procedure

Policy code:	ST2047
Policy owner:	Director, Student Services and Registrar
Approval authority:	Chief Learner Experience Officer
Approval date:	02 January 2024
Next review date:	20 November 2023

Table of Contents

Purpose	1
Scope	1
Legislative Context	1
Definitions	2
Advice and Actions	5
A) Disclosing and Reporting	5
B) Options and Available Actions	6
C) Confidentiality, Transparency and Referral	8
D) Victimisation	9
E) Collection and sharing of data	10
F) Commitment to promote safe and respectful behaviour	10
G) Responding Appropriately to a Disclosure of Sexual Harm	10
Supporting Documents	11
Responsibility	11
Promulgation	11
Implementation	11
Records Management	11

Purpose

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

Scope

1. The prevention of sexual harm through appropriate and respectful behaviours is the responsibility of every member of the Federation University Australia community including its students, staff, visitors and contractors.
2. This procedure applies to students as the person disclosing or reporting (who has experienced sexual harm). This policy does not apply to staff as the person disclosing or reporting.
3. This procedure does not apply to reports or disclosures of sexual harm relating to children. Reports or disclosures of sexual harm relating to children are managed under the Child Safe Policy and Procedure.

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](#)

Definitions

TERM	DEFINITION
Sexual Harm	Sexual Harm includes a range of behaviours that are sexual or sexually motivated and which may be direct, indirect, in-person, written, over the phone or online. Sexual Harm behaviours are of a sexual or sexually motivated nature that are unwelcome and make another person feel uncomfortable or unsafe. The term Sexual Harm is inclusive of Sexual Harassment, Sexual Assault and behaviours that cause a Sexual Safety Concern.
Sexual Harassment	<p><i>Sexual Harassment</i> is unwelcome 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 or written and online. It can 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 • 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. <p>Sexual harassment is not consensual interaction, flirtation or friendship. Sexual harassment is not behaviour that is mutually agreed upon.</p> <p>A single incident is enough to constitute sexual harassment – it doesn’t have to be repeated.</p>
Sexual Assault	<i>Sexual Assault</i> is an act in which a person intentionally sexually touches another person without that person's consent or in a situation where the person is unable to consent or coerces or physically forces a person to engage in a sexual act against their will. A person is not able to consent if they are: unconscious, intoxicated, not of legal age, do not clearly understand what is happening or what is being asked of them or if they feel threatened in any way.
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 and given throughout the duration of the sexual contact. Consent may be withdrawn at any time.
Sexual Safety Concern	A Sexual Safety Concern is when a student feels unsafe because of the behaviour of another person, where there is a reasonable reason to

	believe that the behaviour is sexually motivated. This may include stalking-type behaviours such as monitoring a person’s activity by following them, monitoring them online or through others, taking photographs of the person without their permission, asking for information about that person or unnecessarily being proximate to the person (such as attending or waiting outside of a class the student is enrolled in without reasonable cause).
Disclosure	Disclosure occurs when a person tells someone about Sexual Harm or a Sexual Safety Concern but does not indicate they would like action to be taken. A person disclosing may be seeking support, advice, and referral or may simply want to talk safely about what has or is happening to them.
Report/Reporting	A <i>Report (or Reporting)</i> occurs when a person tells someone about Sexual Harm or a Sexual Safety Concern with the expectation or intent that the university take action or support the person reporting to take action about the matter. Actions available to the person reporting and to the university are outlined in the <i>Sexual Harm and Sexual Safety Concerns Procedure</i> .
Person Disclosing and/or Reporting	The Person Disclosing and/or Reporting is the person to whom the Sexual Harm has happened or who is experiencing a Sexual Safety Concern. Reports or disclosures may also be made by a concerned third party or anonymously, however the actions available to the university to respond may be reduced in these circumstances.
Trauma-Informed	A <i>Trauma-Informed</i> response is a response which prioritises the agency (choice) as well as safety and wellbeing of the Person Disclosing and/or Reporting. A responding person or institution is behaving in a <i>Trauma-Informed</i> way when they acknowledge that (broader university community safety concerns notwithstanding) both the story of harm (disclosure or report) and choice about actions belongs to the Person Disclosing or Reporting and that where possible, they are prioritised as the decision-maker about their own matter.
Person or Persons Named	The <i>Person or Persons Named</i> are the party or parties who have been alleged to have perpetrated Sexual Harm or been the cause of the Sexual Safety Concern.
Misconduct	Misconduct is behaviour that contravenes the Federation University’s regulation 6.1 – Student Discipline. Behaviours that constitute misconduct are outlined in the regulation, Student Code of Conduct and Staff Code of Conduct .
Reasonable Measures	<i>Reasonable Measures</i> are actions the university may take to protect an individual or the broader university community from Sexual Harm and to appropriately respond to misconduct. Reasonable measures will be <i>Trauma-Informed</i> , and will be in accordance with university statute, regulation, policy and procedure.
Natural Justice	<i>Natural Justice</i> refers to the requirement to provide an avenue of response and fair procedural process for the Person or Persons named in a situation or action where the Person or Persons named may be subject to an adverse consequence.
Transparency	<i>Transparency</i> refers to the rights of the Person Disclosing and/or Reporting to be informed about their rights and choices under policy and

	<p>procedures as well as decisions and actions taken relating to their matter or other people who may be informed about the matter. <i>Transparency</i> also refers to the rights of the Person or Persons Named to be provided and have explained the policy and procedure as it applies to any informal or formal actions taken by the university relating to the matter in which they have been named.</p>
Confidentiality	<p><i>Confidentiality</i> is treating disclosures and reports of Sexual Harm or a Sexual Safety Concern as private and not sharing information about those matters without the consent of the Person Disclosing or Reporting. If a determination has been made that there is a serious safety risk to the Person Disclosing or Reporting or a broader safety risk to the university community, the university may take a decision to consult or escalate the matter and in that case will inform the Person Disclosing or Reporting and de-identify them where possible.</p>
Secondary Consultation	<p><i>Secondary Consultation</i> is seeking the specialist advice of a university staff-member (such as Student Equity and Diversity, Counselling, Security or Student Advisory) specialist committee (such as Safer Campuses or the Respect Now Always Committee) or external subject matter expert (such as CASA). The Person Disclosing or Reporting will be informed the reason that Secondary Consultation is being sought and where possible the matter would be de-identified.</p>
Referral	<p>A <i>Referral</i> is a recommendation or introduction to a person or service where further advice, treatment or support can be provided. <i>Referrals</i> may be suggested but are at the discretion of the Person Disclosing or Reporting to take up.</p>
Victimisation	<p>Victimisation means subjecting or threatening to subject a person to some form of detriment because they have disclosed or reported behaviour that they believed constituted misconduct, Sexual Harm or caused a Sexual Safety Concern. Victimisation can include exclusion, gossip, making threats, harassment or any other behaviour that is negative toward the Person Disclosing or Reporting by the Name Person or others acting on their behalf.</p>
Student Discipline	<p>A formal process as outlined in the Federation University Statute and Regulation 6.1 – Student Discipline. A student may be subject to disciplinary action by the university for having perpetrated sexual harm, which would constitute General Misconduct under the Student Discipline regulation.</p>
Reasonable Measures	<p>The university may apply reasonable measures to mitigate the impact of sexual harm on a student’s participation at university. The measures must remove or mitigate a barrier to participation, be reasonable in their scope and not materially disadvantage the person named. Reasonable measures may be applied regardless of, or alongside, a formal misconduct process. An example of a reasonable measure may be to request being placed in a different tutorial group, to seek a remission of debt where study was severely disrupted due to the sexual harm or to move to another Federation Living Residence.</p>
Agreed Outcomes	<p>An informal process available to a person reporting where they may seek to have the university mediate in requesting agreed behaviours or to</p>

	refrain from certain behaviours from the person named. The requested outcomes must be of a nature where the person named does not suffer any detrimental consequence (for example requesting that the person named refrain from texting or calling, or not to visit the residential unit of the person reporting). This is a voluntary process and would not constitute a finding of misconduct. <i>Agreed outcomes</i> may not be deemed an appropriate option where there is a perceived risk to the broader university community.
Safer Campuses (Committee)	A <i>committee</i> of the university with a mandate to review serious safety matters and determine the most appropriate course of action to protect the safety of the university community
Personal Safety Plan	A <i>plan</i> which sets out safety supports and services available to the student and as requested and agreed by the student. The plan is made together with Federation University Security personnel and may include a security escort on and off campus, emergency contact card and increased security presence at certain times or locations.
SOCAIT Unit	The specialist <i>Sexual Offences and Child Abuse Investigation Team</i> of the Victorian Police Force.
CASA	Centres Against Sexual Assault. There are CASA services located throughout Victoria. CASA offer support for victim/survivors of sexual assault and also training for staff to appropriately respond to a disclosure of sexual harm.

Advice and Actions

The advice and actions available under this procedure set out a suite of choices and possible steps. They do not have to be followed in a sequential order. The steps taken will be determined based on each individual case, with priority given to a trauma-informed response, respecting the wishes of the person disclosing and/or reporting and also to the broader safety of the Federation University community.

A) Disclosing and Reporting

A1) Difference between disclosing and reporting

- Any student or concerned member of the Federation University community may disclose or report a matter of sexual harm or sexual safety concern involving a student.
- Disclosure is when a person seeks to tell someone about a matter they have experienced, witnessed or are involved in with the intent to seek support or advice only.
- Reporting is when a person seeks to tell someone about such a matter with the intent to request that the university take action toward resolving the matter.
- Someone may disclose and later choose to report.

A2) How to Disclose or Report

- Under this procedure, any student, staff member or community member of Federation University Australia may disclose or report a matter of sexual harm or of sexual safety concerning a Federation University student.

- Disclosures and reports may be made directly to any staff person within the Student Equity and Diversity Unit. Disclosures and reports may also be made through the secure online Student Complaints Portal.
- Staff within the Equity and Diversity unit are CASA trained and can provide referrals to support, confidential liaison with other university services including academic consideration, housing and security as well as discuss available options for action by the university under this procedure.

A3) Disclosure or Report to another Federation University staff person or community member

- Where a student or other person has disclosed or reported a sexual harm or sexual safety concern to any other Federation University staff member, the staff member should follow the guidance in the factsheet.
- They should provide contact details or referral to Federation University Student Equity and Diversity Unit and also for counselling.
- The staff person should respect the privacy and choice of the person disclosing or reporting regarding actions or the decision to not take action.
- The staff person receiving the disclosure may seek confidential advice from the Student Equity and Diversity Unit by de-identifying the person who has disclosed or reported if the matter raises a broader safety concern for the Federation University community or if they need support themselves.

A4) Disclosure or Report where a serious and immediate safety risk is present

- 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, Federation University security should be contacted (1800 333 732) and the matter reported to police or ambulance as required.
- 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.
- 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.
- 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 the police or ambulance on their behalf.

A5) Time between a matter arising and disclosing or reporting

- There is no limit placed on the time it may take between a matter arising and 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.
- Where a disclosure or report is made of a historical matter which has occurred prior to the person named becoming a student or staff member of Federation University, the university will be unable to pursue formal misconduct processes. The person disclosing or reporting in this instance will be offered referral and support to access Federation University counselling, external support such as CASA and assistance, if chosen, in reporting to the SOCAIT unit of the police. The person reporting or disclosing may also seek support from the university by requesting reasonable measures. As the university can make no finding on historical allegations, the measures may benefit the person reporting but must not cause material detriment to the person named.

B) Options and Available Actions

B1) Disclosing - Support and Practical Help

- When a person discloses sexual harm or a sexual safety concern they may just want someone to listen and acknowledge their experience. Any person receiving a disclosure should show empathy and acknowledge the distress or difficulty experienced by the person disclosing.
- The person disclosing should be provided this *Sexual Harm and Sexual Safety Concern Procedure* as well as the Sexual Harm and Sexual Safety Concern Policy so that they can understand their rights and options.
- Access to specialist supports provided by the university and appropriate external agencies should be offered, which include:
 1. *Referral or contact details for the Student Equity and Diversity Unit* (if the disclosure was made elsewhere). Student Equity can assist with personal safety plans, academicspecial consideration, housing support and deferral of fee (if inability to complete coursework is due to the matter disclosed).
 2. *Referral or contact details for Federation University Counselling*
 3. *Referral or contact details for Federation University doctors or affiliated health professionals (as required)*
 4. *Referral or contact details for the Sexual Assault Crisis Line (Victoria 1800 806 292) or 1800 Respect (Australia wide).*
- Supports should be offered as options which the person disclosing may choose to take up or not at their discretion.

B2) Reporting - Informal Resolution

- A report, where action by the university is requested, must be made directly by the person who has had the experience of sexual harm or who is the subject of a sexual safety concern.
- The *person named* must be a current Federation University student or staff member.
- A person reporting may request the university undertake the following informal actions:
 1. *Reasonable measures.* Reasonable measures are changes that can be made to remove a barrier to participation in university or TAFE activities or reduce the impact of harm. Reasonable measures can be made in the situation where the person reporting does not want the person named to know that a complaint has been made, or they can be made concurrent with a formal misconduct process.
 2. *Agreed Outcomes.* Agreed Outcomes are reached through mediation by a university staff member with the *person named* (where the person named is a current student) on behalf of the person reporting. The person or persons named are provided with this procedure and the process is explained to them. The complaint as well as the nature of the alleged behaviours is described. They are given an opportunity to respond. Once they have responded, a set of actions requested by the person reporting are outlined and the person named has the opportunity to agree to adhere to them or not. The outcomes requested must not materially disadvantage the person named (as there is no formal investigation or finding of wrong – see *Natural Justice*). Agreeing to outcomes does not constitute an admission of the behaviours or a finding of misconduct.
Examples of agreed outcomes may be: “Agree to not contact the person reporting by phone, text or online”, “Agree to not visit the residential unit of the person reporting”, “Not approach the person reporting”
 3. *Provide Respectful Relationship Training.* Respectful Relationship Training can be provided to a particular cohort of students on an as needs basis (in addition to the semester commencement training delivered at Orientation). This can be arranged with Student Equity and Diversity at the request of a complainant or supporting staff person and must be negotiated in consultation with the professional staff or course coordinator and deemed appropriate to the cohort.

B3) Reporting - Formal Resolution

- A formal action by the university may be taken where a person reporting has requested such an intervention or where the university considers that the conduct reported is of a serious nature and/or other members of the university community are at risk of harm.

- The *person named* must be a current Federation University student or staff member.
- All formal resolutions follow the principals of natural justice and any student who is the named person in such a matter will have an opportunity to respond and seek support and advice.
- A formal action by the university may include the following:
 1. *Student Discipline*: Under the University's Regulation 6.1 of the Federation University Act, the university may notify the person named that it is alleged they have behaved in a way that constitutes General Misconduct and that they are requested to attend a formal hearing. The Committee will determine outcomes including penalty.
 2. *Report under the staff Misconduct Clause of the University Enterprise Agreement*
 - Where the person named is a staff-member of Federation University:
 - i. The alleged behaviours are provided to the staff person in a formal correspondence and they have ten working days to respond in writing.
 - ii. If they admit the behaviours, the matter is referred to the Vice-Chancellor for decision. Penalties may include a censure or other penalties available as outlined in the Enterprise Agreement or termination of employment.
 - iii. If they deny the allegation in full or in part, the matter will proceed to a full investigation and the outcome will be based on the balance of probabilities.
 3. *Report under the TAFE Managing Misconduct Procedure for staff*
 - Where the person named is a staff-member of Federation TAFE:
 - i. The alleged behaviours are provided to the staff person in a formal correspondence and they have ten working days to respond in writing.
 - ii. If they admit the behaviours, the matter is referred to the Vice-Chancellor for decision. Penalties may include a censure or other penalties available as outlined in the Enterprise Agreement or termination of employment.
 - iii. If they deny the allegation in full or in part, the matter will proceed to a full investigation and the outcome will be based on the balance of probabilities.
 4. *Report under possible breach of contract*
 - A report may be made to the contract manager, or to the Chief Operating Officer, where it is alleged an employee or owner of a contracted organisation has behaved in a way that contravenes workplace or discrimination legislation.

B4) Reporting Externally

- Federation University staff can support any person within their university community who chooses to report to an external body such as the police. In matters of sexual harm it is advised to report to the SOCAIT unit of the police. The Student Equity and Diversity office can support making contact with police and a staff person can attend as a support with a student who chooses to report to police for sexual harm.
- The university will not report individual matters to the police unless the matter poses a serious safety threat to the broader Federation University community.
- Should a matter reported to Federation University become the subject of a criminal investigation or be pursued through the courts, Federation University will cease any formal internal actions pending the external outcome

C) Confidentiality, Transparency and Referral

C1) Confidentiality when Disclosing

- When a person *discloses (a matter of sexual harm or a sexual safety concern)* they have the right to their information being treated in a confidential way.

- The person receiving the disclosure should inform the person disclosing that their information will be kept confidential unless there is a legitimate reason to share the information.
- A legitimate reason may be because a reasonable assessment has been made that:
 1. There is a risk to safety of the person disclosing/reporting
 2. There is a risk to the safety of the broader university community
- Personal information will be de-identified wherever possible. Information will also be de-identified for reporting purposes.
- Information will be shared in these instance on a need-to-know basis.
- Matters that are identified as posing a significant safety risk to the person disclosing or the broader university community may be brought to and discussed at the Safer Campuses committee.

C2) Confidentiality when Reporting

- When a person *reports* a matter of sexual harm, with the intent that the university take action through agreed outcomes or student discipline, the name of the person reporting and the nature of the alleged sexual harm behaviours may be provided to:
 1. The person named (through formal notification of misconduct letter from the university)
 2. A decision-making person (such as a Dean of school) or
 3. A decision-making body (such as Student Discipline or Safer Campuses Committee).
- Information will be de-identified for reporting purposes.
- Information will be shared in these instance on a need-to-know basis.

C3) Transparency

- When a person discloses or reports they should be provided the Student Sexual Harm Policy and Procedure and assisted to understand their rights and options under those documents.
- The person disclosing or reporting should be kept informed, in a timely way, of the progress of their matter and any actions arising from their matter that concern them.
- The person disclosing or reporting should be told if their information needs to be shared and the reason why. They should know who has been told, details about what has been shared and if they have been identified or the information was shared in a de-identified way.

C4) Referral and/or Secondary Consultation

- It may be appropriate or necessary to refer the person disclosing or reporting to another staff person of the university or to an external agency for assistance.
- This should be done with the consent of the person disclosing or reporting, or in the case of reporting due to a broader safety risk, with their knowledge.
- When referring, the person disclosing or reporting should understand how and to whom they are being introduced.
- There should be an agreement about the information shared.
- When seeking a secondary consultation (asking for advice) from another specialist area such as security, counselling, or an external agency, the same rules of consent and agreement about what will be shared should be followed.

D) Victimisation

D1) Zero Tolerance of Victimisation

- Federation University has a zero tolerance approach to victimisation and any act of victimisation will be viewed as an escalation of the already alleged behaviours.
- Immediate actions may be taken by the university to protect a person disclosing or reporting from further victimisation, which may include temporary exclusion of the respondent from campuses or study, pending a formal hearing or investigation.

E) Collection and sharing of data

E1) Record keeping and reporting

- Federation University staff receiving a disclosure or report of sexual harm or a sexual safety concern are required to make a confidential record of the complaint and store the information in a secure manner.
- De-identified notification of the complaint (including both disclosures and reports) should be made to Student Equity and Diversity for whole-of-institution data reporting.
- The university will collect de-identified data regarding the number and nature of such complaints to be able to understand and improve both prevention and responses to sexual harm.
- Federation University may be obligated to make de-identified data publicly available about the number of complaints, gender of the person disclosing/reporting and person/s named and very general nature of the matters (sexual harassment, sexual assault, for instance).
- Nothing that might identify either an individual or a particular matter would be collected in the aggregated data and reported

F) Commitment to promote safe and respectful behaviour

F1) Commitment to a culture of respect and inclusivity

- Education of the university community about appropriate behaviours and responses
- Modelling of respectful and inclusive behaviour by senior university academic and professional staff, managers and student leaders
- Active pursuit of gender equity through policy, programs and behaviours.

F2) Proactive action to prevent Sexual Harm

- Ongoing face-to-face and online training of students, student leaders and staff about preventing and responding to discrimination and harassment, responding to Sexual Harm and consent.
- Promulgation of materials to inform the university community about avenues for disclosure and reporting, their rights and available supports

F3) Trauma-Informed responses and procedural fairness

- Dissemination of materials about where and how to disclose and report
- Dissemination of How to Respond to a Disclose or Report of Sexual Harm for academic and professional staff
- Adherence to the Sexual Harm Procedure

G) Responding Appropriately to a Disclosure of Sexual Harm

All students, staff and associates have a responsibility to 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. Our responsibility to respond must be done 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 safe University Services and Community Services when appropriate.

Information on how to respond to disclosures of sexual harm appropriately is available on [Safer Campuses](#), or here: [Guideline to Responding Appropriately to a Disclosure of Sexual Harm](#) (DOCX 26.8kb)

Supporting Documents

- [Students and Support for Students Policy](#)

Forms.

- [Guideline to Responding Appropriately to a Disclosure of Sexual Harm](#) (DOCX 27.6kb)

Responsibility

- Chief Learner Experience Officer, as the Approval Authority, is responsible for monitoring the implementation, outcomes and scheduled review of this procedure.
- Director, Student Services and Registrar, as the Document Owner, is responsible for maintaining the content of this procedure as delegated by the Approval Authority.

Promulgation

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

1. A FedNews announcement and on the 'Recently Approved Documents' page on the University's Policy Central website
2. Distribution of e-mails to Head of School / Head of Department / University staff; and/or
3. Documentation distribution

Implementation

This procedure will be implemented throughout the University via:

1. Reporting, documentation and response through the Federation University Safer Campuses webpage and Federation University Online Complaints System
2. Actions as outlined in the Prevention and Response to Sexual Harm Plan of the Respect Now Always Committee

Records Management

As per section E1 above.