

# Sexual Harassment and Sexual Assault Prevention & Response Policy

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## 1. Purpose

This policy affirms Flinders University's commitment to:

- a. creating a safe and respectful environment for work and study for all members of the University community by taking reasonable and proportionate measures to eliminate, as far as possible:
  - i. sexual harassment and harassment on the ground of a person's sex
  - ii. a workplace or study environment that is hostile on the ground of sex
  - iii. sexual assault
  - iv. related acts of victimisation—collectively referred to in this policy as **misconduct**.
- b. responding with a trauma-informed approach to reports of misconduct
- c. providing an accessible mechanism for supporting people who make a report of misconduct, and
- d. monitoring and reviewing the effectiveness of the measures taken to prevent and respond to misconduct.

## 2. Scope

- a. This policy applies to all members of the [University community](#), when they are engaged [in work- or study-related activities](#), at any location or online. This includes University-organised social activities occurring both on campus or off campus, and applies to any informal social activities occurring on campus. This policy also applies to all activities and actions taking place within, or related to, student accommodation owned, managed or utilised by Flinders University or its students.
- b. This policy applies to members of the University community undertaking work or study in offshore locations to the extent that the policy is consistent with relevant laws in the local jurisdiction.
- c. The University recognises that misconduct that occurs outside the scope of this policy can affect the health and wellbeing of members of the University community. Regardless of where the conduct has occurred or who is involved, any member of the University community who has experienced such conduct is encouraged to seek support from the University's support services.

## 3. Policy statement

### 3.1. General Principles

- a. Sexual harassment, harassment on the ground of sex, subjecting a person to a workplace or study environment that is hostile on the ground of sex, sexual assault and related acts of victimisation 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. Misconduct of this nature can have a profound and lasting impact for survivors, their families, friends, and their communities. These behaviours are never acceptable at Flinders University.
- c. The University will adopt a [whole-of-University](#) model and take a positive duty approach, taking reasonable and proportionate measures to eliminate, as far as possible, misconduct. This includes, but is not limited to, addressing the systemic drivers of misconduct.
- d. The University recognises that different community members will have different needs and experiences, and that some members of the University community may be at greater risk of being subjected to misconduct than others.
- e. The University will take an [intersectional approach](#) that provides compassionate and appropriate support and reporting processes so that all members of the University community are supported and can obtain help if they experience misconduct.
- f. The priority of the University in addressing matters of misconduct is the safety and wellbeing of the person who experienced the behaviour. A [trauma-informed approach](#) will be applied when responding to and addressing incidents of misconduct.
- g. A person who experiences misconduct will be provided with accurate and timely information about available supports and the options for reporting the incident(s).
- h. At all stages of the reporting process and when providing support, the preferences of the person who experienced the misconduct will be sought.
- i. The University will also have regard to the safety and wellbeing of other parties to the matter (e.g., witnesses, other community members, and alleged perpetrators).
- j. The University considers any substantiated misconduct to constitute serious misconduct for the purposes of the [Flinders University Enterprise Agreement 2023](#) (or its successor agreements) and the

University's policies and procedures on staff and student conduct, and will be responded to accordingly.

- k. The University will apply the principles of natural justice and procedural fairness when responding to complaints of misconduct.
- l. As part of its whole-of-University approach to the prevention of and appropriate response to misconduct, the University will develop and implement a Respect. Now. Always. (RNA) – Safety and Respect at Flinders Action Plan (the Action Plan).
- m. The University will regularly monitor the implementation of the Action Plan and make changes if required.
- n. The Action Plan will be reviewed at least every four years in consultation with the University community.

### **3.2. What is sexual harassment and harassment on the ground of sex?**

- a. The law defines [sexual harassment](#) as unwelcome conduct or advances of a sexual nature towards a person which a reasonable person, having regard to all the circumstances, would have anticipated as likely to cause offence, humiliate or intimidate.
- b. [Harassment on the ground of sex](#) is where a person is subjected to unwelcome conduct of a demeaning nature because of the person's sex (or a characteristic that generally applies or is imputed to apply to their sex), which a reasonable person having regard to all the circumstances would have anticipated as likely to cause offence, humiliate or intimidate the person.
- c. The laws relating to sexual harassment and harassment on the ground of sex apply equally to all people (irrespective of sexuality, gender or sex).
- d. Sexual harassment or harassment on the ground of sex may be intentional or unintentional.
- e. Sexual harassment can be explicit or implicit (see definition for further explanation).
- f. Sexual harassment or harassment on the ground of sex can be a once off occurrence or a frequent occurrence.
- g. In addition to conduct directed at a particular individual, the law also defines conduct of a sexual nature as conduct which occurs in the presence of a person even if it is not said directly to that person.

### **3.3. What is a workplace, study or living environment that is hostile on the ground of sex?**

- a. A workplace or study environment is hostile on the ground of sex if conduct is engaged in which a reasonable person, having regard to all the circumstances, would have anticipated as likely to cause offence, humiliate or intimidate a person because of the sex of that person (or a characteristic that generally applies or is imputed to apply to their sex).
- b. Hostile conduct may include displaying obscene or pornographic materials and using offensive language, offensive jokes, offensive banter or sexual innuendo, verbally or in writing, which a reasonable person would consider would feel hostile to the members of one sex.

### **3.4. What is sexual assault?**

[Sexual assault](#) can include a number of different crimes which carry serious penalties. It covers a range of sexual acts, including, but not limited to, those identified within Divisions 11 - 13 of the *Criminal Law*

*Consolidation Act 1935* (SA), which take place without a person's [consent](#), or where their consent has been obtained through deception or coercion, or where consent is withdrawn.

### **3.5. What is victimisation?**

It is unlawful for a person to commit an act of victimisation against another person. [Victimisation](#) involves subjecting or threatening to subject someone to a detriment because they have, or intend to, assert their right or make a complaint under an equal opportunity law. This also involves assisting someone else to make a complaint or assert their rights.

### **3.6. Responsibilities of the University**

All members of the University community have the right to work and study in an environment free of misconduct. This means individuals have the right to expect:

- a. the University to take all reasonable and proportionate steps to ensure the environment is free (to the fullest extent possible) from sexual harassment, harassment on the ground of sex, sexual assault and related acts of victimisation, and that members of the University community are not subjected to a workplace or study environment that is hostile on the ground of sex
- b. clear policies, procedures and processes exist and are enforced in respect of misconduct
- c. that those members of the University community who are in leadership positions will role model appropriate behaviour
- d. they will be treated with compassion and dignity if misconduct occurs
- e. they will be provided with support services if they encounter or witness misconduct
- f. any report of misconduct will always be treated with appropriate confidentiality (an exception may be if interim action or an investigation is deemed necessary)
- g. to make the decision about whether they proceed to a formal complaint, or make a report (disclosure) only, with the proviso that the University may still act if it is necessary to protect the safety of the University community or any of its members
- h. the University will act in a timely, fair, and appropriate manner to any report or complaint
- i. to participate in a complaints process that does not create any disadvantage for them, including where interim actions are taken
- j. not suffer victimisation or recrimination in any way, by any person, because they have made a report or complaint of misconduct or supported another person in making such a complaint.

### **3.7. Responsibilities of the University community**

All members of the University community have a responsibility to:

- a. not engage in misconduct
- b. take all reasonable steps to maintain a safe and respectful environment at Flinders University by:
  - i. familiarising themselves with this policy and the supporting [Sexual Harassment and Sexual Assault Response Procedures](#)
  - ii. annually completing the University's online [Responding to disclosures of sexual assault and sexual harassment](#) training program (except students)

- iii. in the case of supervisors, in addition to completing the online training at b.ii above, complete an additional program.
- iv. in the case of students, completing the University's online Consent and respectful relationships training program
- c. in the case of supervisors and other senior managers, proactively address incidents of misconduct in their teams or areas to foster a safe and supportive work and study environment
- d. not discourage or prevent a person from reporting an incident(s) of misconduct, including threatening consequences for reporting
- e. not subject any person who has made a report or against whom a report has been made to any form of victimisation
- f. refer to the [Child Safe Environment Policy](#) for information about the mandatory steps they are required to take if they are aware the report is made by or on behalf of a person aged under 18 years
- g. not make false or vexatious allegations of misconduct against another person.

### **3.8. Reporting misconduct**

- a. Any member of the University community who experiences misconduct when engaged in [work- or study-related activities](#) is strongly encouraged to make a report to the University.
- b. Third-party reports may also be made, and in some cases are required to be made, by people who believe they may have witnessed misconduct or who have received reports from another person that misconduct may have taken place.
- c. Personal details that identify a person who experienced misconduct or the alleged perpetrator of the behaviour are not required to make a third-party report.
- d. Under this policy a report is a disclosure. It is not a formal complaint to the University.
- e. A report is not treated as a complaint unless the person who experienced the misconduct decides to make a formal complaint.
- f. Making a report is the first step in offering support and assistance to any member of the University community who experiences misconduct. It is an opportunity to discuss the support and reporting options available at the University and in the community.
- g. The University will provide multiple accessible, appropriate, and inclusive methods for people to make reports.
- h. The University's processes for receiving and responding to reports, including further information on making a third-party report, or making a complaint to the University, are described in the [Sexual Harassment and Sexual Assault Response Procedures](#).
- i. Any member of the University community who experiences misconduct, regardless of whether it occurred when engaged in [work- or study-related activities](#), can make a report to the police and access support services in the community.

### **3.9. Interim action**

If the University determines it is necessary to protect the safety and wellbeing of the person making the report and/or of the University community, any person may be subject to without-prejudice measures while an internal or external investigation is ongoing, including but not limited to:

- a. suspension from the University (for students)
- b. suspension from employment (for employees)
- c. suspension from other forms of paid or unpaid work at the University (for volunteers or contractors)
- d. reassignment of a person's work or study location or class allocation, or
- e. a temporary ban on attending campus or parts of campus (although students may be enabled to continue studies online if practical).

### 3.10. Ongoing support

After a complaint process has concluded, the University will continue to provide reasonable assistance and support measures as determined on a case-by-case basis to:

- a. protect the safety and welfare of all parties, and
- b. support any person who has experienced misconduct.

### 3.11. Record keeping and reporting

- a. The University will keep accurate and sufficient records of all reports.
- b. Records will be kept and stored in a secure place in accordance with the University's [Privacy Policy](#) and [Digital Security Policy](#).
- c. Periodic reporting of deidentified data (to ensure the privacy of the people in these records) will occur in accordance with the [Sexual Harassment and Sexual Assault Response Procedures](#).

## 4. Breaches of this policy

- a. Sanctions for substantiated complaints of misconduct and other conduct breaches under this policy will be applied under:
  - i. [Statute 6.4–Student Conduct](#)
  - ii. discipline provisions in the [Flinders University Enterprise Agreement 2023](#) (or its successor agreements)
  - iii. provisions for the rescission of academic status under the [Academic Status Policy](#)
  - iv. contract provisions in relevant contracting or consulting agreements.
- b. Sanctions up to and including termination of employment, contract or enrolment may be applied.

## 5. Definitions

### Consent

In the context of sexual activity, consent must be freely given and where relevant expressly given by all parties. It is a voluntary agreement to engage in specific sexual activity.

Consent does not exist when:

- the person is under the lawful age of consent as specified in the applicable criminal code or legislation

	<ul style="list-style-type: none"> <li>• the person agrees because of force, the threat of force, or the threat of humiliation</li> <li>• the person is unlawfully detained</li> <li>• the person is asleep or unconscious</li> <li>• the person is intoxicated to the point of being unable to give meaningful consent</li> <li>• the person is incapable of understanding the nature of the activity</li> <li>• the person has a mistaken belief about the identity of the other person, or</li> <li>• the person is mistaken about the nature of the activity.</li> </ul>
<b>Sexual harassment</b>	<p>Sexual harassment is unwelcome advances or conduct of a sexual nature which a reasonable person having regard to all the circumstances would have anticipated as likely to cause offence, humiliate or intimidate.</p> <p>Examples of sexual harassment include:</p> <ul style="list-style-type: none"> <li>• non-consensual physical contact, such as pinching, touching, grabbing, kissing, or hugging</li> <li>• sexual assault</li> <li>• staring or leering at a person or at parts of their body</li> <li>• persistent requests to go on dates that are refused</li> <li>• suggestive comments about a person's body or appearance to or in the vicinity of a person</li> <li>• sexual jokes or comments and sexually explicit conversations to or in the vicinity of a person</li> <li>• displays of offensive material</li> <li>• accessing or downloading sexually explicit or inappropriate material from the Internet</li> <li>• sending rude or offensive emails, attachments, or text messages (including pictures of body parts)</li> <li>• advances via online platforms</li> <li>• intrusive questions about a person's private life or physical appearance</li> <li>• disclosure of a person's private personal information without their permission</li> <li>• sexually explicit gifts.</li> </ul> <p>Sexual harassment can be explicit or implicit. Conduct which, when considered in isolation, appears to have no sexual connotation may still amount to conduct of a sexual nature when assessed in its context. Behaviour such as gifts, offers of assistance, declarations of love or affection can give rise to sexual harassment if they are unwelcome and would cause a reasonable person to consider that the</p>

	recipient would have felt offended, humiliated or intimidated due to receiving them e.g. due to a power imbalance and/or the frequency of the occurrence.
<b>Harassment on the ground of sex</b>	<p>Harassment on the ground of sex is where a person is subjected to unwelcome conduct of a demeaning nature because of the person's sex (or a characteristic that generally applies or is imputed to apply to their sex), which a reasonable person having regard to all the circumstances would have anticipated as likely to cause offence, humiliate or intimidate the person.</p> <p>Examples of harassment on the ground of sex include:</p> <ul style="list-style-type: none"> <li>• asking intrusive personal questions based on a person's sex</li> <li>• making inappropriate comments and jokes to a person based on their sex</li> <li>• displaying images or materials that are sexist, misogynistic or misandrist</li> <li>• making sexist, misogynistic or misandrist remarks about a specific person</li> <li>• requesting a person to engage in degrading conduct based on their sex.</li> </ul> <p>Harassment on the ground of sex and sexual harassment can occur in combination, but the behaviours constituting each differ in nature.</p>
<b>Sexual assault</b>	<p>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:</p> <ul style="list-style-type: none"> <li>• rape</li> <li>• indecent assault (sexual acts that involve touching)</li> <li>• any sexual contact with a child</li> <li>• sexual servitude</li> <li>• forcing someone to witness a sex act.</li> </ul>
<b>Victimisation</b>	<p>It is unlawful to treat people unfairly because they have used equal opportunity laws including, but not limited to, the Sex Discrimination Act 1984 (Cth). Unlawful victimisation is unfair treatment for complaining about discrimination or harassment. It is also unlawful to be victimised for helping another person to make such a complaint or appearing as a witness when a complaint is being investigated. It is against the law because victimisation punishes people for speaking out and stops them from complaining.</p>
<b>Disclosure</b>	A disclosure is the sharing of information regarding any incident(s) of misconduct with another person.
<b>Report</b>	A report under this policy has the same meaning as a disclosure.
<b>Complaint</b>	A complaint under this policy means a formal complaint to the University.



<b>University community</b>	<p>For the purposes of this policy, University community includes:</p> <ul style="list-style-type: none"> <li>• enrolled Flinders students, including cross-institutional students and students on exchange from another institution</li> <li>• employees and exchange employees</li> <li>• employees of controlled entities, Centres and Institutes, and affiliated clubs and associations</li> <li>• contractors and consultants performing work on university sites or on behalf of the University</li> <li>• visiting academics or persons with academic status</li> <li>• the Council and its committees</li> <li>• any volunteer in the workplace or study environment.</li> </ul>
<b>Work- and study-related activities</b>	<p>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 the University, including being a resident in student accommodation owned, managed or utilised by Flinders University or its students. This includes activities that take place away from University sites, such as field trips, conferences, Work-Integrated Learning placements, work experience placements, work- and study-related social events, University clubs and societies, and online activities including email, online learning and social media activities.</p>
<b>Whole-of-University model</b>	<p>Adopting a whole-of-University model means addressing the context and culture in which students and staff study, work, live and play to foster a safe and supportive environment, reiterating key messages through various mechanisms, engaging relevant stakeholders, working across the diverse settings and levels of the university to effect cultural change addressing the practices, policies and processes across all areas of the university.</p>
<b>Intersectional approach</b>	<p>An intersectional approach includes designing, implementing and evaluating prevention, response and support initiatives that focus on how different forms of oppression and disadvantage shape people's experience of gender-based violence.</p> <p>Flinders University acknowledges that the impacts of sexual harassment and sexual assault are often compounded for those who hold multiple marginalised identities, with women, Aboriginal and/or Torres Strait Islander people, culturally and linguistically diverse communities, people with disability and people of diverse sexual orientation and gender identity being disproportionately affected by gender-based violence.</p>
<b>Trauma-informed approach</b>	<p>A trauma-informed approach to care and practice means that the University will use this approach to enable the person who experienced the misconduct to identify their needs more clearly and seek additional support and determine whether they want to make a complaint to the University.</p> <p>Trauma-informed care is a strengths-based framework that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasises physical, psychological, and emotional safety for both providers and survivors, and</p>

	<p>that creates opportunities for survivors to rebuild a sense of control and empowerment.</p> <p>Trauma-informed practice involves understanding, anticipating, and responding to the needs of victim-survivors. This includes active listening, projecting empathy and providing the person with agency.</p>
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## 6. Legislation

This policy supports compliance with the requirements of:

- Equal Opportunity Act 1984 (SA)
- Anti-Discrimination Act 1992 (NT)
- Sex Discrimination Act 1984 (Cth)
- Online Safety Act 2021 (Cth)
- Fair Work Act 2009 (Cth)
- Criminal Law Consolidation Act 1935 (SA)
- Criminal Code Act 1983 (NT)

## 7. Supporting procedures

Supporting procedures are part of this policy and provide additional detail to give practical effect to the policy principles.

[Sexual Harassment and Sexual Assault Response Procedures](#)

## 8. Related policies and resources

[Code of Conduct](#)

[Bullying Prevention and Management Policy](#)

[Child Safe Environment Policy](#)

[Close Personal Relationships Policy](#)

[Equal Opportunity Policy](#)

[Acceptable Use of Digital Assets Policy](#)

[Privacy Policy](#)

[Digital Security Policy](#)

[Public Interest Disclosure Policy](#) and [Public Interest Disclosure Procedures](#)

[Flinders University Enterprise Agreement](#)

[Student Complaints Policy](#) and [Student Complaints Procedures](#)

[Statute 6.4–Student Conduct](#)

## 9. Support services

Students can access information about support services from the [Safety and Respect at Flinders](#) webpage.

Staff can access information about support services from the [Safety on Campus staff webpage](#). Other supports available to staff include:

[EAP](#)

[P&C Business Partners](#)

[Contact Officers](#)

Principal Adviser, Workplace Relations

[equal.opportunity@flinders.edu.au](mailto:equal.opportunity@flinders.edu.au)

External supports available to students and staff include:

Yarrow Place (1800 817 421) offers counselling, information and a forensic medical service.

1800 RESPECT (1800 737 732) is a national 24/7 sexual assault, domestic and family violence counselling service. It is free and confidential.

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\* Unless otherwise indicated, this policy or procedures still apply beyond the review date.

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