

Student Sexual Misconduct Prevention and Response Policy

Section 1 - Purpose

(1) The purpose of this policy is to outline the University's principles for preventing and responding to student sexual misconduct.

Section 2 - Scope / Application

(2) This Policy applies to all students and staff. In addition, a person who was a student at the time of any alleged sexual misconduct may make a disclosure or formal report of sexual misconduct.

(3) This Policy applies to the management of any disclosure or formal report of sexual misconduct made by or on behalf of a student, including matters where an allegation of sexual misconduct is made against a student.

(4) The Policy is not intended for use in relation to staff-to-staff or student-to-staff allegations of sexual misconduct. Allegations against a staff member will be managed in accordance with the [Staff Sexual Misconduct Policy](#).

(5) Alleged sexual misconduct by a person who is both a staff member and a student may be managed under the policies and procedures applicable to staff, or the policies and procedures applicable to students, or both as determined by the University.

Section 3 - Policy Statement

(6) ACU, consistent with the [ACU Mission, Identity and Values](#), strives to maintain a community characterised by respect for others. A culture of respect means that sexual misconduct is not tolerated. Accordingly, the University:

- a. undertakes a range of prevention initiatives that are aimed at preventing sexual misconduct;
- b. provides support services to help support students who have experienced sexual misconduct; and
- c. has processes for managing situations where a student makes a sexual misconduct allegation against another student.

Section 4 - Principles

(7) The University will continue to develop and implement a range of prevention strategies aimed at minimising the risk of a person experiencing sexual misconduct. These prevention strategies are informed by evidence, including the Australian Human Rights Commission's Change the course: report on sexual assault and sexual harassment at Australian universities (2017) and the results of the National Student Safety Survey (2021).

(8) The University's prevention and response strategies are overseen by the Safeguarding and Student Safety Advisory Committee, chaired by the Vice-Chancellor and President, with an emphasis on continuous improvement. The

committee includes representation from academic and professional staff, and from students, across all campuses of the University and online.

(9) Prevention and response strategies are developed and implemented with awareness that:

- a. it is vital to have input from students in developing and evaluating initiatives that are implemented; and
- b. certain groups can be more vulnerable to risk of sexual misconduct than others.

(10) Any student who fails to complete the respectful relationships module for students by the commencement of the examination period of the relevant study period will be subject to consequences as set out in the [Academic Regulations](#), until such time as the module is complete.

(11) Where a student makes a disclosure or formal report that they have experienced sexual misconduct, the University's primary concern is for the safety of the student. The University is also committed to providing information and support to the student, to aid their recovery and help them to continue with their studies.

(12) The University recognises that:

- a. sexual misconduct can involve conduct by, or towards, a person of any sex, gender, age, race and sexuality. It can occur between strangers or between people who know each other, including people involved in intimate relationships. It can be a single incident or a pattern of unwelcome behaviour; and
- b. sexual misconduct matters are serious, sensitive and complex, and each situation requires a tailored response.

(13) The University's commitment to preventing and responding to sexual misconduct is demonstrated through the provision of specialist resources including:

- a. the Safeguarding and Student Safety team, which develops and delivers workshops for students and staff, supports students who make disclosures and formal reports, and manages situations where an allegation of sexual misconduct has been made against a student;
- b. the Safety Support Network, which comprises academic and professional staff on each campus who have received specialist training to help support students who disclose or report sexual misconduct;
- c. the Student Safety Workgroup, which aims to increase student voice and welcome students as co-creators of initiatives to prevent and respond to sexual misconduct.

(14) When responding to a disclosure or formal report of sexual misconduct, the University will take a trauma-informed and strengths-based approach which emphasises physical, psychological and emotional safety for everyone involved, and seeks to minimise trauma, distress and any other risks to wellbeing arising from the disclosure or formal report or the handing of a sexual misconduct allegation. The University aims to bring sensitivity and good management to its responses to disclosures and formal reports.

(15) Where a student makes a sexual misconduct allegation against another student, the University will manage the matter in accordance with the [Student Prevention and Response to Sexual Harm or Gender-Based Violence Procedure](#). Any finding or outcome by the University regarding a sexual misconduct allegation against a student will address whether or not a student's conduct has breached University policies, procedures, guidelines or codes. It is beyond the power of the University to make legal findings such as whether a student's conduct constitutes criminal conduct. The University's processes are not a substitute for criminal investigation by the police.

(16) In any investigation and/or discipline process resulting from a sexual misconduct allegation against a student, the University will treat individuals fairly, impartially, equitably and with compassion and empathy while adhering to the principles of procedural fairness in making decisions related to alleged incidents.

(17) Any information gathered by the University in the process of reporting, investigating and determining an

allegation of sexual misconduct will be undertaken in accordance with the University's [Privacy Policy](#) and the [Privacy Act 1988 \(Cth\)](#) and will be kept confidential in a secure location, accessible to appropriately authorised staff and will comply with the university's [Records and Archive Management Policy](#).

Section 5 - Further Assistance

(18) Any staff member who requires assistance in understanding this Policy and [Student Prevention and Response to Sexual Harm or Gender-Based Violence Procedure](#) should first consult with their supervisor. If further advice is needed, the staff member should contact a member of the Safeguarding and Student Safety team or the Director, Student Experience and Enhancement. Any student who requires assistance should contact the Safeguarding and Student Safety team.

Section 6 - Definitions

(19) Terms used in this Policy and [Student Prevention and Response to Sexual Harm or Gender-Based Violence Procedure](#) are consistent with the [Glossary of Student and Course Terms](#). The following specific definitions also apply:

Term	Definition
Consent	<p>Consent – A person consents to a sexual act if they freely and voluntarily agree to that act. For the purposes of this Policy and the Student Prevention and Response to Sexual Harm or Gender-Based Violence Procedure:</p> <ul style="list-style-type: none"> • Consent must be explicit, informed, and voluntary and is revocable at any time. • Once consent is withdrawn, the activity must stop immediately. Consent cannot be given when a person is incapacitated. • Implied consent does not constitute consent for the purposes of this definition. • A person cannot consent if they are: <ul style="list-style-type: none"> ◦ tricked, forced, pressured, or coerced into the sexual act; ◦ fearful of harm if consent is withheld; ◦ being held against their will; ◦ under the age of consent in the relevant Australian state or territory jurisdiction; ◦ unconscious or asleep; ◦ affected by drugs or alcohol or otherwise incapacitated to the extent that they are incapable of providing or withdrawing consent; ◦ unclear or uncertain about the identity of the person performing the act; and/or ◦ incapable of understanding the sexual nature of the act.
Disclosure	<p>Disclosure has the meaning given in Section 4 of the Student Prevention and Response to Sexual Harm or Gender-Based Violence Procedure.</p>
Formal report	<p>Formal report has the meaning given in Section 4 of the Student Prevention and Response to Sexual Harm or Gender-Based Violence Procedure.</p>
Sexual assault	<p>Sexual assault occurs when a person is forced, coerced or tricked into sexual acts against their will, without their consent, or after their consent has been withdrawn. Examples include:</p> <ul style="list-style-type: none"> • forced, unwanted sex or sexual acts, including oral sex; • kissing or touching a person's body in a sexual manner; • doing an act of a sexual nature with or towards another person, or making another person do an unwanted act of a sexual nature, e.g. 'flashing', 'sexting', or masturbating in front of another person; • 'stealthling', i.e. non-consensual removal of a condom during sex; • observing a person to obtain sexual gratification where they are in a state of undress, using the toilet, showering, or bathing, or engaged in a sexual act; • recording or distributing an intimate or sexual image of another person; • inflicting bodily harm, or threatening to do so, on a person with an intent to engage in sexual acts with that person or with another person; and • compelling a person to engage, or to continue to engage, in a sexual act.

Term	Definition
Sexual harassment	Sexual harassment is any unwanted or unwelcome sexual behaviour which makes a person feel offended, humiliated, or intimidated. Examples include: <ul style="list-style-type: none"> • staring or leering; • unnecessary familiarity, e.g. deliberately brushing up against a person or unwelcome touching; • suggestive comments or jokes; • insults or taunts of a sexual nature; • intrusive questions or statements about a person's private life; • displaying posters, magazines, or screen savers of a sexual nature; • sending sexually explicit emails or text messages; • inappropriate advances on social networking sites; • accessing sexually explicit internet sites; • requests for sex or repeated unwanted requests to go out on dates; and • behaviour that may also be an offence under criminal law, such as indecent exposure, stalking or obscene communications.
Sexual misconduct	Sexual misconduct means sexual assault and sexual harassment, and, for the purpose of this Policy and Student Prevention and Response to Sexual Harm or Gender-Based Violence Procedure , includes domestic and family violence.
Student	Student has the meaning given in the Glossary of Student and Course Terms , and, for the purpose of this Policy and Student Prevention and Response to Sexual Harm or Gender-Based Violence Procedure , includes a person who was a student at the time of any alleged sexual misconduct.

Section 7 - Revisions made to this Policy and Procedure

(20) The revision table includes revisions up until this document was migrated into the current policy platform. Any later changes will show in the Status and Details tab.

Date	Major, Minor or Editorial Revision	Description of Revision(s)
9 December 2021	Minor	<ul style="list-style-type: none"> • Change of policy governing authority to reflect the transfer of organisational responsibility of Student Support Services, Directorate from Deputy Vice-Chancellor, Education and Innovation to the Chief Operating Office and Deputy Vice-Chancellor. • Update reporting process to align with recommendations of the RNA Desktop review, including the removal of all references to complaint or submission of a complaint and to implement a more victim centric policy practice. • Inclusion of reporting options for students. • Update support contacts. • Update staff reporting flowchart to remove any duplication.
November 2022	Major	Major review and rewrite of policy.

Section 8 - Associated Information

(21) For related legislation, policies, procedures and guidelines and any supporting resources please refer to the Associated Information tab.

Status and Details

Status	Current
Effective Date	19th December 2023
Review Date	27th April 2028
Approval Authority	Safeguarding and Student Safety Advisory Committee
Approval Date	19th December 2023
Expiry Date	Not Applicable
Responsible Executive	John Burdick Director, Student Experience and Enhancement
Responsible Manager	Taleah Neowhouse National Manager, Safeguarding and Student Safety
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