

Sexual Harm Response Guidelines 2023

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1. Introduction

All Australian universities have a duty of care to ensure the safety and wellbeing of their students, staff, and other members of their university community. Underlying values of respect and inclusion should be prioritised when coordinating policy, response, and prevention. Universities should seek to be properly resourced to meet their duty of care obligations, while providing support and responding with empathy to those who experience sexual harm.

In 2018, Universities Australia (UA) launched the *Guidelines for university responses to sexual assault and sexual harassment* (the 2018 Guidelines). The first of its kind in Australia, the 2018 Guidelines aimed to drive and guide a consistent, whole-of-institution approach to responding to disclosures and reports of sexual assault and sexual harassment, adopting a person-centred approach.

Reflecting on developments in practice and the law since 2018, it is now time to update the 2018 Guidelines to ensure they continue to be fit for purpose and relevant to the university sector. The revised *2023 Guidelines for University Responses to Sexual Harm* (the Guidelines) are intended to:

- convey the importance of understanding that students' experiences and response to sexual harm may be diverse.
- provide an effective response, prevention, and policy framework to address sexual harm.
- take into account universities' role in educating the workforce of today and into the future.

The Guidelines also address the prevalence of sexually harmful behaviour being perpetrated online. With the shift to remote teaching and learning due to COVID-19 lockdowns, the Guidelines highlight the need for universities to prioritise online safety.

The decision to change the title to *Guidelines for University Responses to Sexual Harm* is intended to capture the broad range of behaviours that may not fall into the categories of 'sexual assault' or 'sexual harassment'. By using the term sexual harm, we hope to increase further awareness and confidence in reporting a wide range of behaviours, which students may not have previously perceived as meeting the threshold for reporting.

Formerly: Guidelines for university responses to sexual assault and sexual harassment (first published 2018)

2. Socio-political context since the launch of the 2018 guidelines

In recent years there has been significant conversations in Australia and internationally about the need to address sexual assault and sexual harassment in society. The conversations include understanding the harm caused by all non-consensual behaviours of a sexual nature. The harm may result in a person feeling uncomfortable, frightened, distressed, intimidated, or injured either physically or psychologically.

The 2017 #MeToo movement identified some of the causes of gender-based violence, while the Australian Marriage Law Postal Survey raised a debate about same sex marriage. Although the historic vote resulted in favour of marriage equality, there was some anti-trans commentary which led to incidents of discrimination and abuse towards LGBTIQ+ people.

In 2018, Saxon Mullins told her story on the ABC program *4 Corners* and sparked public conversation around consent. Her story contributed to reform of criminal laws in New South Wales in 2022, to require affirmative consent. The law reform was accompanied by education campaigns including the “[Make No Doubt](#)” campaign, launched in May 2022.

Also in 2018, Nina Furnell launched the #LetHerSpeak campaign to abolish sexual assault gag laws in Tasmania, Northern Territory and Victoria to give victim-survivors of sexual assault the right to tell their stories publicly. The diversity of the 17 victim-survivor participants in the campaign highlighted intersectional perspectives and an understanding of the experience of sexual harm.

In March 2020, the Australian Human Rights Commission released the [Respect@Work report](#) following the National Inquiry into Sexual Harassment in Australian Workplaces, led by Kate Jenkins, the Sex Discrimination Commissioner. The Commission was asked to review and report on workplace sexual harassment and to make recommendations in relation to the prevalence, nature, and reporting of sexual harassment in Australian workplaces. The Commission made 55 recommendations. In 2021, the *Sex Discrimination Act 1984* (Cth) was amended to give effect to some but not all the recommendations. This included making ‘sex-based harassment’ unlawful.

The Albanese Government has committed to implementing all 55 of the Respect@Work recommendations.

In 2021, Chanel Contos founded the *Teach Us Consent Movement*, which called for mandated inclusion of consent education in schools. In that same year, the Independent Review into Commonwealth Parliamentary Workplaces (Review) was established by the Australian Government following allegations of sexual harm occurring at Parliament House in Canberra. The review was led by the Sex Discrimination Commissioner, who was asked to make recommendations to ensure that Commonwealth parliamentary workplaces are safe and respectful, and that the Parliament reflects best practice in prevention and response to bullying, sexual harassment, and sexual assault.

In 2022, SafeWork Australia released a number of guidelines and model codes of practice to address the impact of sexual harassment from a work health and safety perspective: [SafeWork Australia](#).

Against the backdrop of these developments, UA funded the [2021 National Student Safety Survey](#) (2021 NSSS) to track student experiences and prevalence rates of sexual harm and re-affirm our commitment to address problem behaviours on university campuses. UA commissioned the first survey of this kind in 2016 and began the Respect. Now.Always. initiative to improve ways to respond to and support those who have been impacted by sexual harm. Both surveys revealed that at-risk groups, which include Aboriginal and Torres Strait Islander students, students with disability, culturally and linguistically diverse students, and students of diverse genders, sexualities and variations of sex characteristics reported experiencing higher levels of sexual harm.

The Guidelines take into account the findings of the 2016 survey and 2021 NSSS with the socio-political context since the launch of the 2018 Guidelines. The 2021 NSSS highlighted the prevalence of sexually harmful behaviour increasingly being perpetrated online, with the shift to remote teaching and learning due to COVID-19 lockdowns. These concerns are addressed in the Guidelines.

3. Key points

When responding to reports or disclosures, universities should take a victim-centred approach and respond in a manner that aims to cause no further harm to the student disclosing or reporting their alleged experience of sexual harm.

Universities should:

- apply trauma-informed care and practice principles when supporting a student who discloses or reports an alleged experience of sexual harm.
- provide clear and transparent information about supports available to a student who reports or discloses an allegation that they have experienced sexual harm.
- apply a 'no wrong door' approach and provide clear and transparent information about all reporting options available to a student who alleges that they have experienced sexual harm, including:
 - any anonymous reporting option.
 - informal options.
 - formal reporting options, including to police, and whistleblowing or protected disclosure procedures.
 - external options to the Australian Human Rights Commission, Fair Work Ombudsman or local state/territory bodies.
 - compliance with mandatory reporting obligations if a student is under the age of 18 years.
- provide clear and transparent information about the university's procedures if a student decides to make formal report, including any time limits that may apply.
- provide clear and transparent information about privacy and confidentiality obligations, explaining when and if confidentiality might need to be waived or when there may be mandatory reporting obligations.
- during the process of investigating or addressing a disclosure or report, commit to keep the student who has made a report informed about the progress.
- minimise the number of people to whom a student needs to disclose information that may be traumatic, including when seeking streamlined arrangements for any administrative, academic or enrolment related requirements.
- provide training for those within university communities likely to be the first responders to a disclosure, including academic, residential, professional and contract staff as well as student leaders.
- respect the decision of the student regarding whether to report an alleged experience of sexual harm to police.

A [Glossary](#) of terms used in the Guidelines is provided at the end of the document.

4. Scope of the revised guidelines

UA recognises that no two institutions are alike. Each university is encouraged to adopt the Guidelines in ways that best suit their internal policies, practices, and legal obligations.

The Guidelines are intended to identify best practice approaches for institutions.

Student reports about the conduct of staff members or other students

The Guidelines may be used to assist universities when responding to a student's disclosure or formal report of alleged sexual harm by a staff member or another student.

It is important to ensure students understand the options for reporting, particularly if a university's response will be different depending on whether the student makes a disclosure or a formal report.

When a student formally reports an allegation of sexual harm perpetrated by a university staff member, the student should be promptly informed of the requirement for a formal report to be handled in conformity with that university's enterprise or collective bargaining agreement or through other appropriate mechanisms.

It is recommended the university's Human Resources unit work in collaboration with their Safer Community teams and/or subject matter experts where appropriate. This may help guide investigations and case management, ensure a victim-centred approach and safety plan, while ensuring all parties are supported throughout the process. Refer to **section 5.2** on adopting a trauma-informed care and practice approach.

Reports to police

The student should also be advised that a formal report can be made to the police where there is an allegation of suspected criminal conduct. Refer to **section 7.14** *Criminal Investigations*.

Students under the 18 years of age

If a student is under 18 years of age when they allege that they have experienced sexual harm, universities may be bound by mandatory reporting obligations. Each institution should consult with

their Governance Unit and Office of the General Counsel and refer to their Child Safe policies to map out the internal processes for reporting. These Guidelines outline mandatory reporting obligations for managing disclosures or reports of sexual harm against or by a student under the age of 18 years.

Universities should ensure that their child safe policies and practices are in alignment with the National Principles for Child Safe Organisations. The National Principles provide a nationally consistent approach to promoting the safety and wellbeing of children and young people, so universities should ensure that their sexual harm policies align with their internal child safe policies and practices. The National Principles were derived from recommendations by the Royal Commission into Institutional Responses to Child Sexual Abuse. Please refer to the [National Office for Child Safety](#) webpage for further information.

Students who are staff members

Universities should recognise that complexities may arise in responding to a disclosure or formal report if a student (who discloses or formally reports an experience of alleged sexual harm) is also a staff member of the university (for example, a postgraduate student working as a sessional academic). While these Guidelines may apply to this cohort of students, universities might consider developing separate policies or guidelines regarding where these students fit within the institution's internal structure and reporting process. It would be prudent for universities to consider making any guidelines available for students and staff in plain English and ensure that a separate policy for this cohort, aligns with any sexual harm policy created by the university.

The Guidelines are not intended for use in relation to staff-to-staff allegations of sexual harm. Universities should, however, consider how their Human Resources Department and Safer Community Units integrate, if at all. Institutions may wish to refer to the [2021 KPMG report](#) on the University of Adelaide's policies, procedures and processes relating to sexual harm. The report contains 22 recommendations, which provide valuable insights for the sector to consider.

5. Principles to guide policy responses

5.1. Positive duty

Recommendation 17 of the Respect@Work Report calls for the introduction of a positive duty on all employers to take reasonable and proportionate measures to eliminate sex discrimination, sexual harassment and victimisation. The recommendation, which is now contained in legislation, is based on the existing positive duty in the *Equal Opportunity Act 2010 (Vic)*. The positive duty approach is considered best practice. It moves away from the reactive, complaint driven approach to a proactive approach which aims to prevent sexual harm. It seeks to remove the onus on the person who alleges that they have experienced sexual harm to initiate action.

Implementing a positive approach means universities must identify and assess the risk of sexual harm occurring and then take proactive steps to eliminate or minimise those risk factors. There are a range of measures that may be taken, so these Guidelines offer recommendations for implementing a positive duty approach.

5.2. Trauma-informed care and practice

When a student discloses or makes a formal report to someone at their university, it may be the first time they have told anyone about their experience. As sexual harm can have devastating, and complex impacts on a person's wellbeing, certain people within universities must have at least basic skills to respond to a disclosure or report.

Anyone in a university may be a 'first responder' to a disclosure or formal report of alleged sexual harm. It may be teaching staff, professional staff, fellow students, student leaders or counsellors, to name a few.

When a person shares their experience of alleged sexual harm, the response should be trauma-informed and validate the person's alleged

experiences and feelings by being empathetic and supportive. Being empathetic requires active listening skills, building rapport with the person disclosing or reporting and recognising their perspective.

There is no single way a person who alleges that they have experienced sexual harm might look, act, feel or respond. It is important that universities recognise this and ensure the response is not based on assumptions about how a student should or might react to their alleged experience or act during the disclosure or reporting process. A trauma informed approach starts with believing the person's account and not questioning them in a way that might convey they are not believed – for example do not say '*could you be mistaken?*', '*are you sure?*', '*what were you wearing?*' '*were you drinking?*'. These responses are not trauma-informed and may imply that the student is not to be believed.

Experiencing sexual harm can impact upon a student's social, interpersonal, psychological, physical, academic, and financial life. They may experience symptoms in response to their experience at different times in their life and in different ways.

If the response is trauma-informed, it may encourage the student to identify their needs more clearly and seek additional support and determine whether they want to make a formal report. A formal report may lead to an investigation and the need for the student to provide further information about their alleged experience, so if this is the case, then this should be made clear to the student. If the response lacks a trauma-informed approach, it can cause further trauma and, in some cases, cause more harm than the alleged incident itself.

For information on adopting a trauma-informed approach, refer to the [Trauma-informed Responses to Sexual Assault Research to Practice Paper](#).

For staff in student facing roles in particular, universities might consider running regular awareness training sessions regarding how to engage with at-risk cohorts and emphasise the importance of intersectionality to respond respectfully and meaningfully to a student making a disclosure or formal report. Trauma-informed training sessions that incorporate an intersectional approach will be valuable for staff regularly interacting with students, particularly students who may be at risk, including LGBTIQ+ students, Aboriginal or Torres Strait Islander students or students with a disability.

Security staff or contractors, who can often be the first point of contact for students who have alleged that they have experienced sexual harm on campus, should also have these skills. Universities should seek to facilitate appropriate training or require it as part of their contractual arrangement. A 24-hour security service should provide clear information about:

- who the student can contact for support and to make a formal report to the university.
- obligations Security may have for notifying the university.
- what information Security can keep confidential on the student's request.
- any limitations to maintaining confidentiality.

Limitations to maintaining confidentiality are outlined in more detail in **section 5.5 Confidentiality and Privacy**.

5.3. Self-determination and empowerment

Universities have a duty of care to provide a safe and inclusive learning environment, so it is important that students who disclose or report an allegation of sexual harm are provided with agency. A person who discloses or makes a report must not be pressured to decide on the course of action they wish to take. Rather, they should be provided with clear, transparent, and accurate information to make informed decisions.

A student should be supported to make their own decisions. To do so, they will require clear and accurate advice about support, assistance, and options available. Best practice suggests a 'no wrong door' model be used. This means a student should not be required to search out information and be directed to multiple people or services or disclose their experiences repeatedly. The person is at the centre of the processes.

A university should be aware that a student is entitled to rely on advice, so it is important to be clear about any university-imposed time constraints that may be in place for lodging a formal report of sexual harm within the institution. This is further detailed in **section 7.6 Timeframes for Reporting**.

People who experience sexual harm are likely experiencing emotional and psychological impacts. However, it is imperative that they are provided with choice – it is their choice to access support or report to police, so staff are advised to respect a student's decision on what support, if any, they want to access in response to their experience.

When providing advice, it is important to acknowledge that the university is not in a position to provide legal advice but may assist the student to contact relevant services to assist.

In certain circumstances where there are mandatory reporting obligations and the university assesses there is a risk to the safety of the person making the disclosure or report, or where there is a risk to others in the university or broader community, institutions may have a duty to act on those concerns. These are outlined in more detail in **section 5.5 Confidentiality and Privacy**.

5.4. Support and assistance

The 2021 National Student Safety Survey reports made it clear that students are confused by the nature of support and assistance that their university can provide if they make a disclosure or formal report of alleged sexual harm. The reports further revealed that many students did not know where to seek information about reporting processes, or to whom they could make a report.

When a student does decide to disclose or formally report their allegation of sexual harm, their safety and wellbeing should be a priority. The university should commit to provide support and assistance to that student. This may include, but is not limited to providing:

- access to information about appropriate emergency health, counselling, security and accommodation provider.
- assistance to ensure understanding of the available options, including reporting to police, making a formal report to the university or making a report to an external agency such as the Australian Human Rights Commission.
- information about and assistance with navigating the university's formal report and misconduct investigation processes.
- information about, and support navigating the university's special consideration process if necessary.
- a referral to internal and external support services.
- regular and timely communication about the process and its resolution, where possible.

University responses should be designed to avoid causing further harm to the reporting student. This, importantly, includes minimising the number of times they need to recount their experience and not imposing significant changes to their routine.

Students are entitled to have a support person, or people, with them when they disclose, make a formal report, or access the university's services. Universities must ensure that students are aware of this and have time to surround themselves with the support they need.

Universities should also seek to make disclosure and reporting spaces as inclusive as possible, for example, making sure that counselling facilities are accessible for people living with a disability, that people with sensory needs are comfortable, that students with a language other than English can access an interpreter, among others.

To ensure students can access support mechanisms, universities should consider how they disseminate information about processes, policies and procedures regarding disclosures and reports of sexual harm. For some universities,

this information lives in complex legal or policy documents that are difficult for students to find and understand, especially if they are dealing with trauma from their experience.

Universities might consider regular audits of their information relating to student support and assistance when responding to allegations of sexual harm to ensure that the information is:

- easy to find and understand.
- communicated in plain English.
- clear in detailing what a student can expect when making a disclosure or formal report of alleged sexual harm, including what services of support and assistance they can access.

Understanding intersectionality

The 2021 NSSS reports noted disproportionate rates of sexual harm for at risk groups which include students of diverse genders, sexualities, and variations of sex characteristics, Aboriginal and Torres Strait Islander students, students with disabilities, culturally and linguistically diverse students and women. Intersectionality helps us understand patterns of sexual harm experienced by those who live at the intersections of multiple marginalised identities and helps us understand the barriers these at-risk groups face when choosing to disclose or report an experience of sexual harm.

For information on using intersectionality as a framework for understanding diverse experiences of sexual harm, universities may wish to refer to [Intersectionality- Consent and Sexual Respect Initiative](#).

Where possible, universities should take an intersectional approach in their prevention of and response to sexual harm. Prioritising an intersectional approach may include establishing specialist internal services such as queer or Aboriginal and Torres Strait Islander counsellors, which provides the opportunity for prevention of sexual harm to be incorporated within the response. Staff within these specialist services can contribute to developing training content and upskilling academic and other professional staff, while providing expert advice in designing student prevention initiatives such active bystander interventions to promote cultural change.

Internal specialist services

The 2021 NSSS reports also highlighted the lack of internal specialist services in place for at-risk groups. Universities should consider an audit of their internal support and specialist services to ensure that the groups noted above have adequate access to support and reporting mechanisms.

If there is an identified gap in an internal service provision, universities might consider establishing specialist supports internally or developing partnerships with community-controlled organisations to streamline support for students with diverse needs. Universities can further benefit from the expertise of these services by developing partnerships where appropriate, to provide their staff with specialist training on engaging with at-risk student cohorts and understanding the barriers they face when choosing to disclose or report an experience of sexual harm.

In some cases, students who allege that they have experienced sexual harm (particularly sexual assault) may require special consideration for assignments and exams, may wish to take a leave of absence, or may require flexibility with changing residences or negotiating termination of lease agreements with university-owned and partner/affiliated residences. Ensuring that these processes are as efficient as possible can minimise further trauma for those students and is valuable support that can be provided to them by their university. Universities should advise students who have made a disclosure that they do not need to make a formal report about their alleged experience of sexual harm to apply for special consideration or to take a leave of absence.

At the time of disclosure or making of a formal report, a university staff member to whom an alleged incident is disclosed should advise the student whether they have the authority to approve or support any enrolment or administrative related requirements that may be needed, such as those referenced above. If not, the student should be provided with details of the staff member/s who can approve these requests. These staff may be disability or academic advisors, welfare officers or counsellors.

As a general principle, where these provisions are sought or granted, universities should protect the confidentiality and privacy of the student by limiting the circulation of any information about the nature of the request insofar as possible.

5.5. Confidentiality and privacy

The confidentiality and privacy of a student who discloses or formally reports an allegation of sexual harm must be protected. Staff may wish to consult with their respective Office of General Counsel and/or Governance units, to understand the relevant privacy and confidentiality obligations.

Being clear about any limits on confidentiality

Importantly, there are circumstances in which a university's ability to maintain a student's confidentiality and privacy are limited. For example, if the university assesses that there is a risk to the safety of the person making the disclosure or report, or a risk of harm to others, key personnel in the university may need to know information about the alleged incident to establish a risk management or safety plan as required. Some of these key personnel may include but are not limited to staff working in Safer Community or equivalent; Security; Governance, Legal or Integrity; Student Health and Wellbeing Services; and Human Resources if the matter involves a staff member.

There are mandatory reporting obligations imposed in certain cases of suspected abuse of children and young people (generally, up to the age of 18 years). It is beyond the scope of these guidelines to explain the content of these obligations, which differ by state and territory, but universities need to understand these obligations where disclosures or formal reports are received concerning students under the age of 18. Universities should train all staff regarding their mandatory reporting obligations and ensure staff are familiar with their internal child safety policies.

There may also be occasional circumstances where a university is obliged to notify concerns or information to the police, to protect the interests of the university community and broader public safety. University staff could seek advice from the Office of the General Counsel, Governance or Safer Community units or equivalent on these obligations. When a university notifies the police, it is usually done by providing an information report. An information report is an informal avenue, so it is up to police discretion whether to investigate concerns raised in the information report. A formal report on the other hand, is normally made by the impacted student as they may be required to provide an official statement for investigation.

Reporting obligations need to be communicated to the student as soon as possible and in a clear and understandable manner.

To help inform a student's decision as to whether to report an alleged experience of sexual harm, universities may consider providing examples in their relevant policy or procedure documentation of circumstances that may trigger an information report to police, such as where there have been multiple reports about the same person, or information available that may lead to the apprehension, prosecution, or conviction of an individual. The reporting student can request to have their identity withheld in the information report, however universities may be obliged to disclose their identity, following an instruction from police. These circumstances should be explained to the student at the time of disclosure or report.

5.6. Acknowledging diversity and prioritising the needs of the student population

Many students who are from culturally, linguistically, and religiously diverse backgrounds, who identify as gender or sexually diverse or who live with disability, may experience additional barriers to reporting or seeking help after an alleged experience of sexual harm. Universities should consider these factors when preparing policies, procedures, and training to respond to such disclosures and reports. Best practice is to develop culturally appropriate practices. This means recognising that individuals will have

unique and different cultural beliefs, needs and expectations.

The 2021 NSSS found that some student cohorts experienced sexual harm at higher rates than others. University responses should acknowledge diversity and actively seek to promote culturally responsive practices.

Given the diversity of each university's student population, the relevant sexual harm policy should include acknowledgement of the experiences, needs and perspectives of distinct population groups, including, but not limited to:

- women
- students with a disability
- culturally, religiously, and linguistically diverse students
- Aboriginal and Torres Strait Islander students
- students who identify as LGBTIQ+, and
- postgraduate students

Women

Female students were found to have experienced higher rates of sexual harm than male students, while most of the alleged perpetrators were reported to be males. The qualitative report of the NSSS highlighted students' experiences of sexually harmful behaviour often intersected with racism, ableism, and other kinds of discrimination, which often lead to an accumulative experience of abuse.

Students with a disability

Students who live with disability for example, may experience additional barriers that make it difficult for them to make a disclosure or report. These circumstances may include reliance on support workers, physical and social isolation, a lack of information and understanding of what constitutes sexual harm, and communication difficulties (Murray & Powell [Sexual assault and adults with a disability, 2008](#)).

Fear of losing access to services, facing judgment upon making a disclosure or report, and fear of not being believed are additional factors that may prevent students from seeking support. Universities should ensure staff are provided with disability inclusion and awareness training to help identify and support students with disability.

Universities should provide information about reasonable adjustments. This may mean asking a student who discloses a disability if they require any reasonable adjustments to support their learning.

Examples of reasonable adjustments may include addressing supports for neurodiverse students (i.e., those who identify as Autistic, ADHD, etc), providing an Auslan interpreter or different ways of communicating. Information and guidance on how to support students to access an appropriate interpreting service should be provided to all university staff.

Students from culturally and religiously diverse backgrounds

For students from diverse cultural backgrounds, recounting their alleged experience of sexual harm may be stressful when English is not their first language. University staff should have or have access to others who have the knowledge and skills necessary to respond to disclosures and formal reports in culturally responsive and competent ways with students from different communities, including international students, Aboriginal and Torres Strait Islander students and students from culturally and linguistically diverse backgrounds.

Universities should ensure that proper support mechanisms are in place, for example interpreters, access to staff who are properly trained to take disclosures or reports from students from diverse cultures, and make information available not only in English, but in a person's preferred language.

Universities should also seek to provide and promote a safe space for students from diverse religious backgrounds, so they feel comfortable in disclosing or reporting an allegation of sexual harm. There may be stigma associated with discussing sexual harm concerns in some religions, which can present a barrier for those students seeking support. Universities should be mindful of these considerations and ensure their campus culture consistently reinforces messages of inclusivity and respect for students and staff of all religious backgrounds.

It is important that university staff do not have preconceived ideas about students from culturally, religiously, and linguistically diverse backgrounds. Staff are encouraged to embrace the diverse range of socio-psychological considerations students may have. For instance, students from Muslim backgrounds may identify as gender and sexually diverse but hold reservations about disclosing their identities and subsequent experiences of alleged sexual harm due to stigma and concerns of judgment. Identifying as gender and sexually diverse is also considered a crime in most Muslim countries, which may impact their decision to disclose or report an allegation of sexual harm.

Universities should seek to provide their staff with cultural competency and diversity training to understand the multiple ways in which intersectionality can impact on a student's decision to make a disclosure or report of sexual harm to their institution.

Aboriginal and Torres Strait Islander students

The [2021 National Student Safety Survey](#) reports noted that Aboriginal and Torres Strait Islander students were more likely to experience higher rates of sexual harm than other students. To understand the experiences of Indigenous student cohorts, universities need to appreciate and acknowledge the impacts of colonisation, racism, and cultural loss to create culturally appropriate spaces for students to feel comfortable with making a disclosure or report of sexual harm. The recognition and empowerment of Aboriginal and Torres Strait Islander sistergirl and brotherboy identities for instance, can promote a safe space for Indigenous students to make a disclosure or report.

[Universities Australia's Indigenous Strategy 2022-2025](#) focuses on improving cultural responsiveness and acting on racism against Aboriginal and Torres Strait Islander people by implementing Indigenous-specific anti-racism strategies.

Key areas of the strategy include recognising the value of Indigenous knowledge and providing a university experience which fosters student success. For examples of healing focused and holistic approaches which draw on intersectionality and trauma-informed practice, universities may wish to refer to [Changing the picture](#), a national resource created by Our Watch in collaboration with the Aboriginal and Torres Strait Islander Women's Advisory Group. The resource supports the prevention of violence against Aboriginal and Torres Strait Islander women and their children.

LGBTIQA+ students

Prioritising cultural responsiveness for students who identify as LGBTIQA+ means avoiding assumptions and ensuring students are comfortable with discussing sexual orientation, gender orientation, and sexual practices. Aspects of culturally appropriate practices include recognising and respecting that students may identify as non-binary, have preferred pronouns and forms of address. See ALLY Network information under **section 7.3**.

Postgraduate students

The 2021 NSSS revealed that postgraduate students are more likely to experience sexual harm by staff. It is, therefore, recommended that disclosure modules and training are not limited to student-to-student sexual harm, but also include staff as potential perpetrators and victims to enable a culture of accountability and trust within institutions.

In 2018, Universities Australia developed the [Principles for Respectful Supervisory Relationships](#) in collaboration with the National Tertiary Education Union, the Council of Australian Postgraduate Associations and the Australian Council of Graduate Research. It is recommended these Principles are included in staff and student inductions and joint case study workshops, to ensure all parties are aware of behavioural expectations, support services and reporting avenues to raise concerns of sexual harm and other unacceptable behaviours. Universities may consider implementing the [Respectful Research Training Resources](#) developed by the Australian Council of Graduate Research, in joint

case study workshops with supervisors and postgraduate students.

Communicating expectations early and on a consistent basis to supervisors and postgraduate students in joint sessions promotes a culture of accountability, while re-affirming universities' commitment to address these concerns.

The 2018 Principles for Respectful Supervisory Relationships noted there is an inherent power imbalance between supervisors and postgraduate students. As at-risk student groups are found to have experienced higher levels of sexual harm, universities may wish to build on the Principles for Respectful Supervisory Relationships by developing respectful supervisory guidelines for Aboriginal and Torres Strait Islander students and other at-risk groups listed above.

Universities should ensure that postgraduate students are also able to access the suite of resources and prevention initiatives on sexual harm and other behaviours of concerns that are available to undergraduate students.

5.7. Natural justice

The person against whom a formal report or disclosure has been made

Universities need to observe the principles of natural justice and procedural fairness when considering any formal report, including those regarding sexual harm. These principles dictate that any assessment or investigation will be undertaken in a fair, impartial, and equitable way.

Handling formal reports of sexual harm can be difficult because universities have obligations to both the person making the report and the person about whom a report is made if they are students or staff. It is important to recognise that all parties may be affected by a formal report process.

Where the person about whom the report is made is also a person to whom the university has formal obligations, the university needs to apply the principles of natural justice and procedural fairness appropriate to the case and consistently with any policy.

Critical elements of procedural fairness include, providing a person:

- with appropriate details of the allegation against them, and an opportunity to respond to the allegation, and
- with the right to be treated without bias in any investigation or decision concerning the allegation.

To meet their obligations to the person about whom the report is made, universities should provide support and assistance to them, which may include but is not limited to:

- access to information about appropriate emergency health, counselling, security and accommodation providers
- information about and assistance with the navigating the university's formal report process and misconduct investigation processes
- referral to internal and external support services, and
- regular and timely communication about the process and its resolution.

Wherever possible, a university should assign a different support officer to the person about whom the report is made, and to the person making the report, as not doing so might create a conflict of interest or the risk of a perception of bias.

The person who has made a formal report or disclosure

It is important that staff working in this area have a high level of expertise in responding to disclosures and reports, and training in multiple aspects of cultural and diversity competence. Universities risk causing further harm to the reporting student and any impacted parties if staff lack the specialist skills and training for understanding the needs of at-risk student cohorts and making them feel safe when disclosing or reporting an allegation of sexual harm.

It is also important that universities make it clear to the person making the disclosure or report, what obligations universities have towards the person against whom the allegation is made.

In the 2021 NSSS reports, it was clear that many students misunderstood their university's obligations to the person against whom their disclosure or report was made. They understood a 'zero tolerance policy' at the university to mean that the person against whom the disclosure or report was made would be quickly reprimanded and, in some cases, expelled or dismissed.

As part of the process, universities must make it clear to the person making the disclosure or report what interaction the university will need to have with the person against whom the allegation is made, and what action, if any, the university may take against that person throughout the process. This will help ensure that the students making the disclosure or report fully understands the university's role in the process, as well as how the alleged perpetrator will be engaged with through the process.

Universities should also be clear in communicating that they cannot determine whether a crime has occurred, rather a university investigation will focus on whether there has been a breach of university policies or Codes of Conduct. See section 7.14 Criminal Investigations for more information.

6. Key information in a sexual harm policy

In conversations to guide the development of the university sector's *Respect. Now. Always.* initiative, student peak bodies and sexual violence survivor advocates urged universities to recognise that sexual harm is different to other types of student misconduct – for example, damage to university property, plagiarism, or contract cheating.

As such, universities should strongly consider adopting a standalone policy to address sexual harm, reflecting a positive duty to eliminate sexual harm.

As autonomous institutions, universities decide the institutional mechanisms through which sexual harm cases are addressed.

Regardless of the mechanism, it is recommended that the relevant policy as appropriate:

- contain a statement from university leadership that perpetrating sexual harm is unacceptable and will not be tolerated.
 - confirm that these behaviours breach university codes of conduct or equivalent.
 - clearly state that the safety and wellbeing of the person disclosing or formally reporting an alleged incident of sexual harm, including the safety and wellbeing of the respondent and other members of the university community is of equal priority to the university.
 - has a component in the definition of sexual harm to include any unwanted behaviour of a sexual nature, which can also be perpetrated using technology.
 - refer to relevant state and federal legislation prohibiting behaviours that amount to sexual harm, including grooming and other predatory behaviour.
 - state that sexual consent must be freely and where relevant, expressly given.
 - outline the scope of the policy – for example, whether the policy applies to university-affiliated clubs and groups, student residences, off-site events/trips.
- clearly articulate that people who experience sexual harm can report their allegation to the police.
 - clearly identify the university's formal reporting process and misconduct procedures.
 - clearly explain the standard of proof used in misconduct procedures.
 - clearly communicate that a university's formal investigations process is not a substitute for a criminal process.
 - include information on potential sanctions that may be imposed on an alleged perpetrator should the university determine that misconduct has occurred.
 - be inclusive in its language.
 - be publicly available and readily accessible.

A list of behaviours should be included in the policy, clearly stating to the university community that these behaviours are unacceptable, prohibited and, in some circumstances, criminal.

The relevant policy might also explain how the university can and will appropriately respond to disclosures or formal reports of alleged sexual harm, to ensure that student expectations can be appropriately established and managed throughout the process they choose to follow.

The policy should apply in circumstances where the university may have a duty of care, which may include activities that are:

- conducted on any of the university's physical and digital campuses.
- conducted in a university facility.
- conducted as part of deployment on university business or as a representative of the university (such as field research, student placements, secondments, and exchanges).
- affiliated with the university, such as student clubs or study-related camps.

Online and technology

Technology-facilitated sexual harm, including image-based abuse, should also be captured in the policy. The 2021 NSSS highlighted the increase in sexually harmful behaviours being perpetrated online with the shift to remote learning and teaching environments.

Sexual harm and other behaviours of concern may be perpetrated via university-authorised technologies so each university may need to consider how significant the impact of the behaviour of concern is on the teaching and learning environment when assessing whether it is appropriate to commence misconduct proceedings. It is important that staff have reassurance that they will be supported by the university when intervening to address inappropriate behaviour in the teaching and learning environment. Regardless of whether misconduct proceedings can be commenced, the reporting student and all impacted parties should be provided with information on internal and external support services, reporting avenues and options available to them.

Universities may wish to add a component on online safety to unit outlines within the Learning Management System where information on reporting, support services, links to the code of conduct, misconduct guidelines, IT and social media policies are easily available for students to access. Consideration should be given to providing ongoing education for students and staff on online safety, what constitutes harmful online behaviours, and complement the education with training on how to help those who have experienced harmful online behaviours. Universities can draw on the [Toolkit for Universities](#) suite of resources, developed in partnership between eSafety and UA to combat online abuse and its impact on students and staff.

Residential colleges

It should be made clear whether the sexual harm policy applies to university students living in residential colleges or halls, or other types of student accommodation (whether on or off campus), regardless of whether that college or accommodation is managed or affiliated with the university.

The 2021 NSSS revealed the need for student reports of sexual harm in university residences to be managed in a consistent and sensitive manner in line with a victim-centred approach.

Cultural and diversity competency and responding to disclosures training should be provided to residential staff and student leaders. Universities may wish to consider whether tenancy agreements for residences which they manage include information on relevant policies, process for reporting and support services. Universities may also consider having contractual arrangements with third-party accommodation providers they engage, regarding what avenues are available to students to raise concerns, including how reports of sexual harm and other behaviours of concern will be managed by third-party accommodation providers.

Beyond the university grounds

It should be clear to staff and students that incidents which occur beyond official university business and beyond university grounds are of concern to the university and that universities encourage those affected to seek support from university services. Universities recognise that sexual harm can affect the health and wellbeing of members of the university community, regardless of where the incident occurred. It should also be clear to staff and students whether they are able to access formal reporting and misconduct procedures, as well as support mechanisms, where the incident occurred beyond official university business or beyond university grounds.

Finally, it is important to advise students and staff that the university's policy may not apply where a formal report is made about someone that is external to the university and that – in such cases – the university is unlikely to be able to investigate or impose any sanctions on that person.

7. Other matters to consider

In addition to the points above, below are some of the other matters that universities should consider as part of any policy or procedural response to sexual harm.

7.1. The difference between a disclosure and a formal report

A disclosure involves the sharing of information about an alleged incident(s) of sexual harm with another person. Disclosures can be made to anyone and are usually made to a person who is known and trusted. A person who discloses may not want to make a formal report and may instead be seeking information about resources and support.

Formal reporting refers to providing a formal account or complaint about an alleged experience of sexual harm to a person or institution that has the authority to act. Reporting can be an outcome of disclosure, but it is not the only possible outcome.

When a student discloses an alleged experience of sexual harm, it is important to explain the full range of options available to them, including accessing support services and making a formal report. The first responder should explain what a formal report to the university involves and ask the student whether they would like to make a formal report. Making a formal report may have different connotations for the diverse groups of students and staff on campus. Some may hold the assumption that a formal report automatically triggers an investigation process, so it is important to be clear whether this is the case. The first responder needs to explain that the student can access support services without making a formal report.

If the student does want to make a formal report, they may be required to provide details of their alleged experience to other people within the

university. Students need to be advised of this so they can seek additional support and advice for this part of the process. Having to repeat details of the alleged incident of sexual harm can be re-traumatising and can slow recovery, so it is imperative staff adopt a trauma-informed approach when managing disclosures and reports.

Universities may wish to refer to the 2019 report submitted to Justice Canada by Dr. Lori Haskell and Dr. Melanie Randall on [The Impact of Trauma on Adult Sexual Assault Victims](#) for further information on how trauma impacts memory and recall of events.

7.2. Consultation with stakeholders

Students' perspectives are crucial in the development of any sexual harm policy, especially those student groups that are known to experience sexual harm at higher rates than other groups, including LGBTIQ+ students, Aboriginal and Torres Strait Islander students, culturally diverse students, female students, and students with disability.

Meaningful discussion with students can facilitate greater engagement with the university's policies and processes, which in turn may encourage students to formally report incidents to their universities.

Consultation with existing in-house expertise (such as staff in clinical, legal and risk roles) can establish the best pathways for resources and support within the university. Similarly, such conversations can establish any gaps in expertise and the need to engage external stakeholders with specialist expertise to complement in-house expertise.

University engagement with their affiliated colleges and residential halls – including where such colleges are owned and managed independently of the university – is essential

to ensure consistency between the policy responses, reports, and investigation approaches of all institutions.

Consulting with clubs and societies that are affiliated with the university is another important practical step to ensure a clear understanding that the university's policies on sexual harm apply to their activities.

7.3. Access to the policy

Best practice extends to how easily the policy, procedure and other key information can be accessed by students.

This can include providing highly visible information on the university's homepage or easily located webpages; in student common areas or lounges; through leaflets, student newspapers and newsletters; in club/society rooms; through course/unit outlines; information on the back of student cards; in mobile phone apps and on social media.

Universities may wish to provide students with electronic starter packs which include information on behavioural expectations, online safety, avenues for reporting problem behaviour, guidance on accessing the internal formal complaint process, internal support services, links to relevant internal policies and information on *ALLY Networks and training.

Consideration should also be given to providing staff with starter packs which include all the information above, so they are aware of how to support students. The starter packs for staff could also include the internal processes for responding to disclosures and reports of sexual harm, child safe policies and the Principles for *Respectful Supervisory Relationships*.

**ALLY Networks are informal networks of staff and students working across their respective universities to create a more inclusive campus culture by promoting greater visibility and awareness of LGBTIQ+ issues. ALLY training may include understanding commonly used terms, experiences of people from the LGBTIQ+ community, recognizing and responding to homophobia, creating an inclusive culture, and*

providing support, and valuing and celebrating LGBTIQ+ people and culture.

7.4. Keeping records

The 2021 NSSS found that many students who experienced sexual harm did not seek support or assistance from their university, and they did not formally report their experience to their university or police.

This could be an information gap for universities as each institution can benefit from insights into the reasons for under-reporting. Universities need a sound understanding of the nature and scale of these behaviours in their communities to target effective prevention and intervention programs. Prioritising student wellbeing, reviewing risk management protocols and mitigating against institutional liability, are additional reasons to ensure record keeping. For instance, a university may be contacted by police, enquiring about a student allegation of sexual harm on campus, which the student had advised police they disclosed to a staff member at their university. If the institution does not have a record of the disclosure, there is no information detailing what support, options and safety plans, if any, were offered to the student at the time of disclosure. This presents a risk to student wellbeing and safety, while potentially creating reputational damage. In circumstances where a university may have a duty of care to the student, the university may be at risk of breaching that duty if the staff member did not provide the appropriate referrals and information to support the student in their decision-making, following their disclosure of sexual harm.

Universities should consider establishing a data collection mechanism that captures all disclosures and formal reports of alleged sexual harm. Record keeping should be maintained by a central unit. Due to the sensitive and confidential nature of the information, universities should control access to ensure all records of that information are secure. Records should be documented in a factual manner, and any opinions or assessments conveyed in a professional tone devoid of judgment or bias. Where an alleged incident is recorded for any purpose other than

responding to a formal report, all data related to the incident should be de-identified. This will help universities to identify patterns of behaviour and the effectiveness of procedures while safeguarding privacy.

It is important that all information is collected with informed consent and principles of privacy respected and prioritised. A person who receives a disclosure should explain to the student that they will provide de-identified information to the university to help it better understand what is happening in its community.

7.5. Contact points for reporting

Universities should consider appointing a single point of contact to which all formal reports of alleged sexual harm experienced by students are made. The Safer Community Unit or Integrity Unit (or similar) is usually best placed to serve as this single contact point. It is important that the single point of contact does not consist of only one person as it is not feasible for a sole person to handle all reports of alleged sexual harm. This might cause delays in actioning reports, potentially further discouraging students to report their experiences to their institutions.

Establishing a single point of contact can help to ensure that response processes are coordinated, consistent, robust, and effective; incident data is accurately captured; and enables formal reports to be handled with the strongest expertise. Reporting trends can also be monitored over time and help determine whether issues, such as case resolution times, are being effectively addressed. The single point of contact would also be responsible for informing senior management and facilitating referrals to other internal services as appropriate.

Staff within this single point of contact, should be trained to respond to trauma and have knowledge of culturally appropriate practices. To ensure the service is a safe and accessible space for at-risk student cohorts, staff should also have a high level of cultural competency and diversity training which includes LGBTIQ+ inclusion, disability awareness, cultural diversity and Aboriginal and Torres Strait Islander cultural awareness.

The reporter needs to be:

- advised whether their report will need to be referred to another person, internally or externally
- advised if the university is required to share details of the incident and with whom, and
- be provided with a realistic timeframe for the resolution of the report.

At times, it may not be possible to provide an accurate timeframe for the matter to be resolved. If it is not possible to provide a timeframe for resolution, ensure that the reporter is provided with regular progress updates.

7.6. Timeframes for reporting

There is variation across the sector regarding the timeframes within which students or staff can lodge a formal report of alleged sexual harm.

Some universities specify that a formal report needs to be made within a specific timeframe, where other universities do not impose a time limit on reporting.

Students who lodge a formal report of alleged sexual harm outside the university's specified timeframe should be advised that the university may be limited in any actions it can take. Where no timeframe has been specified by the university, students should be advised that a delay in reporting can affect the university's ability to investigate the matter. Factors which may impact universities' ability to investigate or discipline the respondent can include whether the claims are historical, whether the individuals concerned are still students or current staff, or whether they are in the country.

7.7. Multiple methods for making a formal report

Students should be offered several options to make a formal report of an allegation of sexual harm through a single reporting contact point. At a minimum, students need to be provided with the name and contact details of the relevant Safer Community Unit or Integrity Unit or equivalent, through which they can make a formal report.

Options for multiple methods for making a formal report of alleged sexual harm may include:

- Email
- Online reporting form with an anonymous reporting feature
- Phone
- In-person
- Safety App

Universities may offer alternative reporting options such as anonymous reporting, for students who may not wish to identify themselves or make a formal report of sexual harm.

Subject to a university's particular approach and policy, it is important universities highlight any limitations with investigating anonymous reports, including the difficulty with providing an outcome to an unidentified anonymous reporter. Although universities may not be able to investigate anonymous reports, they are advised to record the information for the purposes of building a case history.

Regardless of the formal reporting mechanism, students should be provided with information on support services at all points of the formal reporting process.

Whichever method a student chooses to make a formal report, an acknowledgement that the report has been received and information about next steps should be given as soon as possible. Failure to acknowledge a report in a timely way can be re-traumatising for the person making the report.

7.8. Reports from third parties

Universities should consider how they respond to reports received from third parties, such as a witness or bystander, support person, parent, friend or health service provider, and what action may and may not be taken. Those making reports as third parties are likely to have expectations about what action the university can take, so it is important for universities to advise them on what is – and what is not – possible.

Universities should also consider how they respond to anonymous reports of alleged sexual harm from third parties.

7.9. Reports about third parties

Where a student makes a formal report about someone external to the university – for example, a supervisor on a work placement or a member of the broader community – the university may be restricted in its ability to act or undertake an investigation, so the student should be advised that this is the case.

Regardless of whether the university may or may not be able to undertake an investigation within the circumstances, the student should be offered appropriate supports, including access to counselling.

In the case of a formal report made about an alleged incident arising from a university related placement, the university should have clear written and/or contractual arrangements with the third-party organisation regarding behavioural expectations, what avenues are available to students to raise concerns, and how reports of alleged sexual harm and other behaviours of concern will be managed by the third-party organisation.

A student may also want to report the incident directly to the third-party organisation, so universities can seek to empower the student to do so. Taking the above-mentioned example of a student on a work placement, the institution

should be able to advise the student that the alleged behaviour of the supervisor may amount to workplace sexual harassment which is unlawful under several Australian federal, state and territory laws.

In addition to advising the student of their option to report to Human Resources at the organisation they are undertaking their work placement, the student should also be advised of their options to report to the Australian Human Rights Commission, the Fair Work Ombudsman, or police.

7.10. Information on the misconduct process

On receiving a formal report of alleged sexual harm, the university should consider several issues to determine next steps. These include but are not limited to:

- the health, safety and wellbeing of the person making the report.
- ensuring the person reporting is not victimised for making a report.
- the health, safety and wellbeing of the university community, including the respondent.
- outcomes sought by the person making the report.
- whether there is a legal duty to report the incident.

The reporting student should be advised of the university's threshold for determining whether to undertake a formal investigation prior to that determination being made.

Universities should base all decisions on the merits of each case and be guided by the principles of impartiality, natural justice, and procedural fairness. Given the university has a role to promote the safety and wellbeing of all students and staff, including that of the person about whom the report is made, it is important that balanced recommendations are made, including managing expectations, when seeking a resolution.

Where a student or staff member makes a

formal report about a person who is external to the university, they should be advised that the university may not be able to conduct a formal investigation. Any relevant sexual harm policy should make it clear what the university can and cannot do regarding a disclosure or report of this kind. Refer to **section 7.9 Reports About Third Parties** to understand duty of care obligations towards students.

Where the person making a report requests an outcome that is not possible, universities should advise the reporting student, if possible, why the outcome that is being sought cannot be granted. This presents a valuable opportunity for universities to manage expectations from the outset of the disclosure or reporting process.

Should the university decide to proceed with a formal investigation, it is critical that the reporting student and the person about whom the report is made are provided with information on the nature and purpose of a university's misconduct process.

All persons involved should be advised that the university cannot determine whether a crime or a civil wrong has occurred; rather, it can only determine whether someone has engaged in behaviour that constitutes misconduct as per the university's code of conduct or other relevant policy or agreement.

Universities have neither the authority nor expertise to conduct a criminal investigation: see **section 7.14 Criminal Investigations**.

All parties should be provided with information on potential remedies and sanctions that may be imposed should the university determine that misconduct has occurred.

Both the reporting student and the person against whom the report is made should be kept informed of the progress of the investigation. Every effort should be made to provide the reporting student with an outcome where possible. In some circumstances, there may be privacy and confidentiality factors for the alleged perpetrator that need to be assessed, which may subsequently impact the level of information that can be shared with the reporting student.

7.11. Precautionary measures

When an allegation of sexual harm is received, the university should consider whether urgent precautionary measures should be put in place, pending the commencement of a formal or informal process. In determining these measures, universities will need to consider whether there is a risk to the safety of any person based on what has been alleged (recognising that the allegation has not been investigated and may not be substantiated); and consider the potential effects of the proposed precautionary measures, before deciding on measures to mitigate against the risk of ongoing harm and victimisation.

In addition to safety considerations, the university should talk with the reporting student about measures that may be taken to maximise their psychological safety by minimising their distress or anxiety. These measures might include moving one or more of the parties to alternative accommodation (where the alleged incident occurred in an accommodation setting) or moving to another class. Additional security and patrols may need to be instigated.

Such measures may not be practical or reasonable in every case, and where a change of class is proposed, relevant university staff in that faculty or school may need to be consulted carefully and sensitively to ensure privacy considerations are managed for both the reporting student and alleged perpetrator. The university needs to advise all parties that any precautionary measures of this nature that are proposed or adopted do not presume the outcome of any investigation or action and are intended to offer protections for all parties. If the person about whom the report is made declines to cooperate with a proposed precautionary measure of this nature, no adverse conclusions should be drawn. All parties may want to seek legal advice before agreeing to any suggested precautionary measure.

Wherever possible, universities should seek to minimise disruptions to the reporting student and to any student who may be the subject of a disclosure or report to ensure they can remain in their course of study.

7.12. Resolution of a formal report

Depending on the nature and seriousness of the report, the university may consider several approaches to resolving it, but all must be consistent with the policy and the information provided to the individuals involved. Regardless of the approach taken by the university, it should have regard to the needs of the person making the report, the safety of the university community, and the university's obligation to act impartially and afford the parties natural justice and procedural fairness.

A university's approach to undertaking a misconduct investigation is commonly outlined in the relevant policy or procedure document. A panel may be convened to assess the matter and recommend an outcome to the designated Authorised Officer, where one or more parties are students or staff at the university, and where a link is established between the alleged behaviour and impact on the university community and/or teaching and learning environment. As noted in **section 4** under *Scope of the Revised Guidelines*, formal reports of sexual harm allegedly perpetrated by staff may be required to be handled in conformity with the university's enterprise or collective bargaining agreement or through other appropriate mechanisms; so, a university may have different processes for investigating alleged misconduct involving staff.

Given the sensitivity of sexual harm, the university should consider drawing on people that have expertise in specific areas, such as forensic and clinical psychology, social work, trauma counselling, equity and diversity, human resources, and governance and legal.

Where the report involves students who are residents of a college or university hall, with the impacted student/s' consent, the Safer Community Units, or Integrity Units or equivalent, should consider engaging a senior Residence Advisor or Manager to be consulted during the investigation and risk management process.

At the time the formal report is made, all parties involved should be advised of the standard of proof that will be used to determine if the university's code of conduct and/or relevant policies have been breached. For most universities this is the civil standard of on the balance of probabilities, which means the person determining whether misconduct has occurred needs to determine whether the alleged conduct is more likely to have occurred than not, taking into account the seriousness of the allegations and the consequences for the respondent.

The relevant policies, procedures, rules, and appeals processes should allow a university to determine that no further action is necessary following a formal report being made, for example if there is insufficient information to proceed with a formal investigation. The reporting student should be advised when the university decides not to proceed with further action, and where possible, the institution should seek to provide reasons for why that decision was made. The student should be advised they have the option to seek a review of the university's decision via relevant third-party organizations such as the Ombudsman or Human Rights Commission.

7.13. Sanctions

If someone is found to have engaged in conduct that amounts to a breach of university policies, misconduct regulations or code of conduct, then the relevant policy may list potential sanctions that may be imposed by the university. These sanctions are specified in a university's policies, processes, by-laws, or rules and vary from university to university. They may range from receiving a caution, to suspension, exclusion, or expulsion.

As universities are autonomous institutions, it is the decision and responsibility of each university to determine what sanction will be imposed if a student or staff member is found to have engaged in misconduct.

All parties need to be advised that the person about whom the report is made has the right of appeal regarding the university's handling of a misconduct matter. This process should align with the existing university administrative appeals process.

7.14. Criminal investigations

A student who either discloses or formally reports an allegation of sexual harm needs to be advised of the option of reporting to the police. In some cases, it may be mandatory to report to the police. In New South Wales for instance, if a person is aware of information about a sexual assault that may lead to the apprehension, prosecution, or conviction of an individual, then they are obligated to report it to the New South Wales police. If the adult person fails to report to police without having a valid excuse, they may be charged.

The reporting student should be advised that there are fundamental differences between a criminal process and a university misconduct investigation. A university misconduct investigation seeks to determine whether misconduct has occurred, normally based on a standard of proof of balance of probabilities, whereas a criminal process seeks to determine whether a crime has been committed to the standard of proof of beyond reasonable doubt.

Where a student advises the university that they have reported an incident to the police, universities should consider and determine whether a parallel misconduct investigation would adversely impact the criminal process. In complex cases when determining whether to commence an investigation, advice may be sought from external entities such as police or other regulatory bodies.

A university may decide it will not pursue a misconduct investigation until the criminal investigation is complete. However, the university should consider what precautionary measures need to be put in place to ensure the reporting student's safety, while ensuring procedural fairness for the student against whom the allegation is made, until the criminal process has concluded.

All parties should be advised by the university that the outcome of a criminal justice process may inform the university's response to the formal report, including an internal investigation.

Criminal justice matters typically take considerable time to resolve, and for those who have been sexually assaulted, this protracted period can be traumatic. The reporting student may request that their university undertake a misconduct

investigation in parallel to a criminal process. However, they should be advised that the university may not accede to such a request, particularly if any misconduct investigation might adversely affect an external criminal process (or vice versa) or might affect the rights of the person about whom a report is made to a fair hearing. Universities should seek to ensure that an internal investigation does not jeopardise or compromise the criminal process.

Where the police advise a university that a parallel investigation should not take place, then the university should abide by this request. An ongoing dialogue with police about such matters is strongly advisable.

If a university receives no formal advice from the police on the university proceeding with an internal misconduct investigation, then the university should consider whether to pursue such an investigation, considering the reporting student's wishes and the safety of the university community.

7.15. Outcomes for the victim-survivor

Following an investigation, the university should consider the nature and extent of support for the victim-survivor. This may involve risk management planning, facilitating access to support services, changes to enrolment or work schedule, and in some cases other forms of redress including compensation. The university should also advise all parties they have the option to lodge complaints with external bodies such as the Australian Human Rights Commission and Fair Work Ombudsman, including the option to report to police.

Glossary

affirmative consent	Means that consent is actively sought and actively communicated. This approach shifts from a “no means no” standard to “yes means yes”, in that an individual seeking to engage in sexual activity with another person must obtain clear, express consent from them before (and while) engaging in a sexual act.
agency	Means recognising a person who has experienced sexual harm may make decisions about what, when and how they want to respond
anti-trans	Hostility towards people who identify as transgender
culturally safe principles	https://www.health.vic.gov.au/health-strategies/aboriginal-and-torres-strait-islander-cultural-safety
disclosure	Involves the sharing of information about an alleged experience of sexual harm with another person.
formal report	A formal report provides a formal account/complaint about an alleged experience of sexual harm to a person or institution that has the authority to take action.
Intersectionality	Explains the ways in which systems of inequality based on gender, race, ethnicity, sexual orientation, gender identity, disability, class and other forms of discrimination “intersect” to create unique dynamics and effects (Centre for Intersectional Justice).
LGBTIQ+	An acronym associated with gay, lesbian, bisexual, transgender and gender diverse, intersex, queer and questioning, and asexual plus communities.
NSSS	National Student Safety Survey
Positive duty	Information about implementing a positive duty approach is available here Positive duty Victorian Equal Opportunity and Human Rights Commission
routine	Having a routine can assist in the recovery process, as it works to establish some semblance of normalcy after experiencing trauma. For further information on resilience and recovery following a sexual assault, refer to the Queensland Government’s Sexual Assault Response Team (SART) Resilience and Recovery Factsheet at the Royal Brisbane and Women’s Hospital
sexual harm	Any unwanted, behaviour of a sexual nature. Sexual harm includes sexual assault, rape, sexual harassment, sex-based harassment, and any other unwanted sexual behaviour, whether online or in person. The harm may result in a person feeling uncomfortable, frightened, distressed, intimidated, or harmed either physically or psychologically.
student	Each university may have their own definition of what constitutes a ‘student’, so how universities apply their policies to people on their digital and physical campuses will depend on how they define a student.
trauma-informed care and practice	Trauma-informed approach involves understanding, anticipating, and responding to the needs of victim-survivors. This includes active listening, projecting empathy and providing the person with agency.
victim-survivor	This expression is used to acknowledge a victim is defined by the harm that has come to them and a survivor is defined by their experience after sexual harm has occurred

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