



### Context and Purpose

The purpose of this Procedure is to:

- > outline the University's processes for responding to Disclosures and Complaints of sexual harm where the respondent is a UniSA student; and
- > ensure compliance with the intent of the Sexual Harm Policy.

This Procedure should be read in conjunction with the Sexual Harm Policy.

Where the respondent is a UniSA staff member or a Third-Party Provider the Sexual Harm Procedure: Staff will apply.

Where the respondent is a staff member and a student, the University will determine whether this Procedure or the Sexual Harm Procedure: Staff will apply.

### Confidentiality

Confidentiality and information privacy will be upheld in accordance with legislative and reporting requirements and University policies and procedures.

### Principles

1. Any person who has experienced an incident/s of sexual harm is encouraged to make a **Disclosure** or **Complaint** to the University, the police or other relevant agency.
2. All Disclosures and Complaints will be treated confidentially and sensitively, and responded to and progressed in a timely manner, in accordance with the Sexual Harm Policy, this Procedure, other University policies and procedures, and appropriate bylaws and statutes.
3. If a person making a Disclosure or Complaint would prefer to provide information in their first language, the University will provide an interpreter, free of charge, and support them to access the service.
4. The University will not tolerate any retaliatory or other adverse action taken or threatened against another person because of their involvement in a Disclosure or a Complaint of sexual harm and may take disciplinary action. This includes threatening, intimidating, or harassing any person or group of persons, or intentionally interfering with an investigation. Any person who believes they are experiencing **victimisation** should contact the Respect@UniSA team.

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### Procedure

#### A. Making a Disclosure of Sexual Harm

5. Any person who has experienced, witnessed, or become aware of, an incident/s of sexual harm involving a member of the **University Community** can make a Disclosure via the University's online form or by contacting a [Designated First Responder](#).
6. Where a Disclosure is made to a Designated First Responder they will:
  - 6.1. provide information about support services;

- 6.2. explain the process for making a Complaint to the University; and
- 6.3. document the Disclosure through the University's online system.
7. Where a person discloses an experience of sexual harm to any other member of the University Community the person should be supported to contact a Designated First Responder or the Respect@UniSA team.
8. **Anonymous Disclosures** of sexual harm can be submitted via the University's online system. An anonymous Disclosure may limit the University's ability to support the person or to respond to the incident/s.
9. Any staff member who has witnessed, or become aware of, an incident/s of sexual harm in relation to a member of the University Community is required to disclose the incident/s via the University's online system. The staff member must provide their own contact details to enable the University to meet its responsibilities in accordance with the Sexual Harm Policy but is not required to disclose the name of the person who experienced the sexual harm.
10. Where a Disclosure is made via the University's online system and it relates to the actions of a UniSA student, it will be submitted directly to the Director: Student Engagement Unit (SEU) or nominee. If the Director: SEU (or nominee) determines that the Disclosure falls within the scope of this Procedure, they will refer the matter to the Respect@UniSA team. A member of the Respect@UniSA team will:
  - 10.1. review information provided in the online Disclosure and, where contact details have been provided, make contact with the person within one (1) working day of the online Disclosure being received (unless the person has indicated in their Disclosure that they do not wish to be contacted);
  - 10.2. provide information in relation to supportive measures such as academic and wellbeing support and referrals to support services as needed;
  - 10.3. undertake a preliminary assessment and outline options available to the person to help them determine any next steps they may wish to take, including making a Complaint to the University or report to the police; or
  - 10.4. where the Disclosure falls outside the scope of this Procedure, the Director: SEU (or nominee) will direct the person, in writing, to the relevant area or process.
11. Following a Disclosure, the person who experienced the sexual harm may choose one or more of the following options:
  - 11.1. request that the University put in place supportive measures;
  - 11.2. progress with making a Complaint to the University;
  - 11.3. make an external Complaint (e.g., police or other external agency) with the assistance of the Respect@UniSA team as needed;
  - 11.4. no further action.
12. The University recognises the person who experienced sexual harm may choose not to make a Complaint. The University will respect the person's decision and will continue to provide them with information and support. However, in all instances, the University has a responsibility to do the following:
  - 12.1. take any action to ensure the safety of the person, the University Community and/or any identified third party; and

- 12.2. make a mandatory report of suspicion of sexual harm occurring to any member of the University Community under the age of 18 in accordance with the Children and Young People (Safety) Act 2017.
13. Where the University determines there is a serious or imminent risk to health or safety of any person, the University may take action in relation to a Disclosure without the consent of the person who experienced the sexual harm.
14. In coordinating the University's response to a Disclosure or Complaint of sexual harm, the Respect@UniSA team may need to involve other internal stakeholders.
15. A person may disclose an incident/s of sexual harm to the University then decide to make a Complaint at a later time. There is no time limit on converting a Disclosure to a Complaint and a person may choose to do so at any time. If the person about who a disclosure or complaint is being made is no longer a student at the University, the University will provide the complainant with support and advice on external reporting options.
16. Complaints made to the University will be investigated in line with **Section B** of this Procedure.
17. A person may choose to report to the police or another external authority at any time (refer to **Section F** of this Procedure).
18. In accordance with the Department of Foreign Affairs and Trade (DFAT) *Preventing Sexual Exploitation, Abuse and Harassment (PSEAH) Policy*, all DFAT staff and all DFAT partners must report alleged sexual exploitation, abuse, and harassment (SEAH) incidents when they occur in the delivery of DFAT business.

## **B. Investigating Complaints of sexual harm**

19. Where it is agreed that a Complaint of sexual harm will be investigated, the investigation will be initiated within a reasonable timeframe, in a manner that is respectful to both the complainant and the respondent.
20. Complaints of sexual harm will primarily be investigated by an appropriately trained member of the Respect@UniSA team.
21. Complaints that are determined by the Director: SEU to be complex and/or involve sexual assault allegations may be referred to an external investigator for investigation in accordance with the principles outlined in the Sexual Harm Policy and this Procedure.
22. Complaints will be investigated following principles of **procedural fairness**.
23. Both the complainant and respondent may bring a **support person** to meetings and discussions regarding the Complaint.
24. Any investigation into Complaints of sexual harm will assess whether, based on fact or the balance of probabilities, the reported sexual harm has been substantiated and if it has, whether it constitutes a breach of the Sexual Harm Policy, other University policies, procedures, statutes, bylaws, or the Code of Conduct for Students (as applicable to the respondent).
25. Where the University investigates a Complaint of sexual harm any findings made will be in relation to alleged student misconduct. The University's investigation process is not a substitute for a criminal investigation conducted by the police.
26. Where it is determined the respondent/s actions constitute a breach of the Sexual Harm Policy, the Director: SEU will determine an appropriate penalty in line with **Section D** of this Procedure.

27. Where the University investigates a Complaint of sexual harm the outcome of the investigation will be provided in writing to the complainant and the respondent.
28. A person has the right to withdraw a Disclosure or Complaint at any stage of the process. However, the University may continue to act on the Disclosure or Complaint to ensure the safety of the person who experienced sexual harm, and members of the University Community.

### **C. Interim measures**

29. The University will implement interim measures where appropriate to reduce the potential for harm to any member of the University Community. Interim measures do not in any way signal or anticipate the outcome of any University process.
30. Interim measures are temporary restrictions or requirements in response to a Disclosure or Complaint of sexual harm, pending resolution of the Disclosure or Complaint.
31. Interim measures for students may include one or more of the following:
  - 31.1. restricted access to particular course classes or modes of study;
  - 31.2. restricted access to specified buildings or facilities;
  - 31.3. restricted access to UniSA information technology resources, clinical sites, laboratories, and affiliated entities used for UniSA research or teaching;
  - 31.4. prohibit a student from speaking to or approaching another person(s) (including via social media, phone, messaging services, email, letter or through a third party);
  - 31.5. prohibition from entering specified campuses/University property; and/or
  - 31.6. any other temporary restrictions or requirements the University deems necessary to reduce the potential for harm to any member of the University Community.
32. The Director: SEU will determine interim measures as relevant to the specific circumstances of the Disclosure or Complaint. The Director: SEU will provide details of the interim measures in writing to the relevant parties.
33. A student who is subject to interim measures has the right to request a review of the interim measures by providing information in writing to the Director: SEU about why the interim measures should be varied.

### **D. Investigation outcomes**

34. Penalties for students who have been found to have breached the University's Sexual Harm Policy will take into consideration the need to balance punitive outcomes with developmental, educational, and restorative outcomes.
35. If a student has breached the University's Sexual Harm Policy, the Director: SEU will determine the most appropriate penalty, which may include one or more of the following:
  - 35.1. a caution and/or reprimand;
  - 35.2. compulsory completion of a relevant training program and/or completion of written reflection; followed by a reflective meeting with a Counsellor or relevant support service;
  - 35.3. enrolment restrictions and conditions;

- 35.4. prohibition, for a fixed period from entering the University grounds or a specified part of the University grounds;
- 35.5. a determination that a more serious penalty, as specified in clause 39, is appropriate.
36. Where the Director: SEU determines a more serious penalty is appropriate, they will establish a SASH Outcome Committee to consider the investigation report and determine the appropriate penalty.
37. The SASH Outcome Committee will consist of:
  - 37.1. the Director: SEU (or their nominee) as Chair;
  - 37.2. a member of the USASA Board;
  - 37.3. a member of academic staff; and
  - 37.4. the Registrar and Director: Student and Academic Services (or their nominee).
38. The Chair may determine that additional relevant staff need to attend the committee to provide advice regarding the matter. Examples include an Access and Inclusion Adviser, a Student Adviser (International), or the Manager: Counselling.
39. The SASH Outcome Committee may determine one of the following penalties:
  - 39.1. cancellation or suspension of a student's enrolment for a specified period, up to a maximum of three years;
  - 39.2. expulsion from the University;
  - 39.3. one of the penalties specified in clause 35, in which case the SASH Outcome Committee will determine which penalty/s to apply.
40. The Director: SEU will communicate the outcome and/or penalty to both the complainant and respondent following resolution of the Complaint.
41. Where appropriate, and agreed to by the complainant and the respondent, one or more of the following restorative actions may be applied:
  - 41.1. provision of a written apology by the respondent to the complainant;
  - 41.2. facilitated conversation between the complainant and the respondent that seeks to acknowledge harm, promote repair and understanding while preserving the safety and dignity of all parties.

#### **E. Review and appeal**

42. Where the complainant or respondent is dissatisfied with the management of the Disclosure or Complaint, they can contact the [Student Ombud](#).
43. Where a respondent wishes to appeal against the outcome of an investigation, they can do so through the [Student Appeals Committee](#).
44. If the complainant or respondent believes the University has breached one of the Tertiary Education Quality and Standards Agency's (TEQSA) standards, the complainant or respondent can submit a Complaint to TEQSA.

## F. Reporting to the police or other external agency

45. It is for the complainant to decide whether or not they report the incident/s to the police or other external agency. The University will respect the complainant's decision in this regard and will provide information and support to the complainant.
46. A person who has been sexually assaulted is encouraged to report the incident/s to the police.
47. A person who has been sexually harassed can choose to report this to the Equal Opportunity Commission (South Australia) or to the Australian Human Rights Commission.
48. The University will only report sexual harm to the police with the consent of the person who experienced the sexual harm, except in circumstances where the University has a duty of care or is otherwise required by law (e.g., where the conduct is related to a child or young person and falls within the scope of mandatory reporting requirements of state legislation).
49. When reporting sexual harm to the police, or other external agency, the University will only provide the relevant information as is required by law or as necessary for action to be taken.
50. Where the University has a legal requirement to report to an external agency other than the police (e.g., Independent Commission Against Corruption (ICAC) or other regulatory agencies) this will be managed in accordance with the agency's provisions for reporting.
51. If a report is made to both the University and the police or an external agency, the University may be required to suspend any internal investigation pending the outcome of the external process. The University will continue to make support resources available whilst waiting for the outcome of any external investigation.
52. The University reserves the right to implement interim measures to safeguard the complainant, respondent and other members of the University Community following consultation with the police.

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### Related Documentation

- > [Sexual Harm Policy](#)

**Officer/s Responsible for Update and Review:** Chief Academic Services Officer and Executive Director: People, Talent and Culture.

**Approving Authority:** Council

**Commencement Date:** 5 March 2024

**Review Date:** March 2027

**History:** This Procedure supersedes the procedural detail in:

- > Sexual Assault and Sexual Harassment Procedure