

# Sexual Assault and Sexual Harassment Policy and Procedures

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11 October 1999 (Manager: Equity and Diversity)(Director: Human Resources)

18 August 2006 (Director: Human Resources)

16 June 2014 (Director: Human Resources)

**REFERENCE AUTHORITY:** Pro Vice Chancellor: Student Engagement and Equity

## **CROSS REFERENCES:**

1. University of South Australia Code of Good Practice: Relationships between Staff and Students
2. University of South Australia Code of Ethical Conduct
3. University of South Australia Code of Good Practice: Research degrees management and supervision
4. University of South Australia Staff Appeals
5. University of South Australia Code of Conduct for Students
6. University of South Australia Equal Opportunity Policy
7. University of South Australia Anti-Racism Policy
8. University of South Australia Inclusive Language Policy
9. University of South Australia Health Safety and Injury Management Policy
10. University of South Australia Acceptable Use of Information Technology Facilities Policy
11. University of South Australia Enterprise Agreement 2014
12. University of South Australia Guidelines for best practices in UniSA work placements within Australia
13. University of South Australia Guidelines for students on use of IT facilities, including email and the internet
14. University of South Australia Guidelines on Electronic Communications with Students
15. University of South Australia Assessment Policies and Procedures Manual
16. University of South Australia Privacy Policy

The following legislation applies as amended from time to time:

- Commonwealth Racial Discrimination Act 1975
- Commonwealth Sex Discrimination Act 1984
- Commonwealth Human Rights and Equal Opportunity Commission Act 1986
- Commonwealth Disability Discrimination Act 1992
- Commonwealth Workplace Gender Equality Act 2012
- Commonwealth Age Discrimination Act 2004

- South Australian Criminal Law Consolidation Act 1935
- South Australian Equal Opportunity Act 1984
- South Australian Work Health and Safety Act 2012
- South Australian Whistle-blowers Protection Act 1993
- South Australian Work Health and Safety Regulations 2012
- South Australian Racial Vilification Act 1996
- University of South Australia Act 1990
- University of South Australia Statute 7 – Student Misconduct
- Children and Young People (Safety) Act 2017
- Commonwealth Fair Work Act 2009
- The National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code 2018)
- South Australian Return to Work Act 2014

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## Purpose

The purpose of this policy and associated procedures is to:

1. promote a respectful, safe and inclusive university environment that is free of sexual assault and sexual harassment;
2. define the process for receiving disclosures and reporting incidents of sexual assault and sexual harassment;
3. establish a decision-making process that ensures the safety and rights of complainants, meets the requirements of procedural fairness and holds accountable those who have committed sexual assault or sexual harassment within the university community against another member of the university community.

This policy supports the University of South Australia's (UniSA) commitment to stop and prevent any form of sexual assault and sexual harassment and describes the expectation that all members of the UniSA community treat each other with respect, courtesy and consideration. UniSA will take all reasonable steps to ensure that all members of the university community are aware of this policy and their responsibilities to act in accordance with its requirements.

## Scope

This policy applies to all members of the university community.

This policy extends to all UniSA community premises and includes but is not limited to UniSA's:

1. campuses;
2. sporting and recreational clubs and facilities to the extent that they fall within the university community;
3. managed digital environments;
4. activities and situations related to UniSA business that are not conducted on UniSA's premises, including but not limited to work and study related activities such as:
  - internships, placements and field trips
  - conferences
  - student camps
  - student accommodations
  - inter-university events
  - parties and other social functions.

This policy provides a framework for the management of [disclosures](#) of [sexual assault](#) or [sexual harassment](#) and the pathway for [reports](#) of sexual assault or sexual harassment. It is inclusive of the university's response to reported [complaints](#) of sexual assault or sexual harassment made against UniSA staff members or students. The range of possible outcomes are determined according to relevant UniSA policies regarding UniSA staff and students.

UniSA understands that a [member of the university community](#) may, while carrying out their business as a [staff member](#) or a [student](#), be subjected to sexual assault or sexual harassment by an individual

outside of the university community. In such circumstances, UniSA will provide appropriate support including reporting options.

If a report is referred to police for sexual assault matters or the Equal Opportunity Commission (EOC) or to the Australian Human Rights Commission (AHRC) for sexual harassment matters, then the university will not take any action that will compromise the police investigation or EOC/AHRC complaint resolution process. While responsibility for prosecuting criminal acts of sexual assault rests with local police where the offence occurred, the university can take action where there is a breach of its rules, by-laws, policies and procedures by members of the university community for activities and situations related to UniSA business.

## Definitions

It is to be noted that all terms in this section have been defined for the purposes of this Policy and Procedures only.

**Complaints Assessment Team (CAT)** is convened by the Executive Director: People, Talent and Culture to oversee the management of complaints of sexual assault or sexual harassment made by staff or against university staff, contractors or [third party providers](#). The composition of the CAT will be determined by the Executive Director: People, Talent and Culture and will have regard to the specific report made.

**Complaint** is a verbal or written communication from a member of the university community who believes they have experienced sexual assault or sexual harassment, either by a staff member or student of UniSA, or a third party provider. A complaint may take the form of either disclosure of an incident of sexual assault or sexual harassment, or a report of an incident of sexual assault or sexual harassment.

**Complainant** is a member of the university community who has made a complaint. A complainant may choose to disclose or report an incident of sexual assault or sexual harassment.

**Confidentiality** is the principle upheld to ensure that information provided under this policy is only disclosed to those legitimately involved in resolving the complaint, providing support to a [complainant](#), or as required by law. Confidentiality must be maintained to:

- respect the privacy of individuals;
- prevent [victimisation](#) or defamation of the parties involved; and/or
- facilitate prompt resolution of the complaint.

**Consent** is the free and voluntary agreement to engage in sexual activity of any kind. Consent is the act of willingly agreeing to engage in sexual activity and requires that a person is able to freely choose between two options: yes, and no.

Some examples of where consent is **not** considered to have been given are:

- consent has been expressed or compelled by the words or conduct of a person other than the complainant;
- the complainant was incapable of consenting to the sexual activity if they were asleep, unconscious or intoxicated by alcohol or any other substance or combination of substances to the point of being incapable of giving free and voluntary consent to sexual activity;
- physical force, threats of harm, an express or implied threat to degrade, humiliate, disgrace

or harass the person or some other person; or unlawful detention were used by the [respondent](#) to engage the complainant in sexual activity;

- the respondent induced the complainant to engage in the activity by abusing a position of trust, power or authority;
- the complainant expressed, by words or conduct, a lack of consent to engage in the sexual activity;
- the complainant, having previously consented to engage in sexual activity, expresses by words or conduct, a lack of consent to continue to engage in the sexual activity;
- the complainant agreed to engage in sexual activity with a person under a mistaken belief as to the identity of that person;
- the complainant is mistaken about the nature of the sexual activity (for example the person may be told that activity of a sexual nature is part of the provision of health care);
- the respondent was recklessly indifferent as to whether the complainant consented to sexual activity, or withdrew consent to sexual activity

**Disclosure** is a form of complaint occurring when a complainant or another person tells someone about an incident, or a suspected incident, of sexual assault or sexual harassment directed towards them, or a member of the university community. Disclosing is not the same as reporting but will enable referral of the complainant to appropriate support and information about their choices and options with regard to medical, legal and counselling support.

**First responder** is a member of the university community who, as part of their substantive duties, may provide appropriate support and information to anyone who has been subjected to sexual assault or sexual harassment. A list of first responders is available on the [website](#). UniSA recognises that students or staff may disclose or report to a member of the university community who is not a designated first responder. In such instances any member of the university community should support the complainant in accessing and talking with a trained first responder.

**Investigator** is an individual tasked with investigating a complaint. The person appointed as an investigator will be skilled in investigation and any conflict of interest will be avoided.

**Managers** are relevant Pro Vice-Chancellors, Heads of School, Deans, Directors of Research Institutes, Division Managers (or their equivalent) or Directors of central units.

**Natural justice** (also called 'procedural fairness') is a process that is subject to the following principles:

- all parties must be given an opportunity to present their case;
- the respondent must be provided with notice and information about allegations made against them and information about their rights to advocacy;
- the respondent must be given a reasonable timeframe within which to respond;
- the decision maker must:
  - act fairly and without bias
  - declare any conflict of interest
  - consider all relevant evidence
  - base any decision on evidence that supports it;
- all parties must be informed of the decision relating to the complaint, and the reasons for that decision.

**Report** is a form of complaint and occurs when a member of the university community expresses the desire to formally report an incident of sexual assault or sexual harassment, for the purpose of initiating an investigation.

**Respondent** is a member of the university community who has been accused of sexual assault or sexual harassment.

**Students at Risk Committee (SARC)** supports identification and case management of students presenting with risk of harm to self or others. The SARC includes the Deputy Director: Student Services, Campus Facilities Manager and Manager: Student Wellbeing, who engage Heads of School, Directors and other [Managers](#) or their representatives as required.

**Sexual assault** is an inclusive term used to describe any type of unwanted sexual act inflicted upon a person that they have not freely and voluntarily consented to, have withdrawn [consent](#) to, or occurs in circumstances where they are incapable of giving free and voluntary consent. It is inclusive of a variety of unwanted sexual behaviours a person may be subjected to, ranging from activities such as unwanted sexualised touching through to sexual intercourse without consent. Sexual assault can include sexual behaviours that involve the use of force, threats, coercion or control towards a person. Sexual assault typically involves an exploitation of vulnerability, betrayal of trust and the misuse of positional power.

**Sexual harassment** is an unwelcome sexual advance or request for sexual favours or conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated where a reasonable person would anticipate that reaction in the circumstances.

Sexual harassment includes, but is not limited to:

- any deliberate and unsolicited sexual comment, the use of overt sexual language, suggestive or physical contact that creates an uncomfortable learning/working environment for the recipient and is made by a person who knows, or ought reasonably to know, that such action is unwelcome;
- a sexual advance or solicitation made by one person to another, where the person making the advance or solicitation knows, or ought reasonably to know, that such action is unwelcome;
- a reprisal, or threat of reprisal, for the rejection of a sexual solicitation or advance particularly where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person;
- practical jokes of a sexual nature which cause awkwardness or embarrassment;
- displaying and/or distributing pornographic pictures or other offensive material of a sexual nature, including audio or visual images of an individual through technological devices, equipment and service;
- unwanted physical contact such as kissing, touching, patting or pinching;
- unwelcome sexual remarks, sexual jokes, intrusive sexual questions, sexual innuendoes or taunting about a person's body, attire, sex, personal or social life;
- sexually explicit emails or text messages;
- requests for sexual favours.

**Staff member** is an individual employed by UniSA under the university's Enterprise Agreements, adjuncts, visiting academics and guest lecturers, whether they are paid or unpaid.

**Student** is an individual enrolled in an undergraduate, post-graduate, or non-award program with the university including those on leave or accessing study online.

**Student Ombud** is the final port of call for students when all other avenues to resolve a matter have failed. Their role is to act independently and impartially to examine whether all avenues available to investigate and/or resolve a matter have been explored.

**Supervisors** are members of the university community who have oversight and/or direction of the work of staff or students.

**Third Party Providers** are persons or organisations contracted to the university to provide teaching and learning to UniSA students.

**Trauma-informed response** is a response that demonstrates understanding and recognition of the impact of trauma, and emphasises physical, psychological and emotional safety, and the importance of empowerment and choice for those who have experienced sexual assault or sexual harassment. Trauma-informed responses are inclusive of transparency of processes and policies to build a climate of trust to enable disclosures. Trauma-informed responses give recognition to the historical and cultural factors which contribute to the occurrence of sexual assault and sexual harassment, and identify opportunities for contributing to the prevention of further sexual assault and sexual harassment by changing the cultural conditions and environment under which it occurred.

**UniSA Equity Contact** is a designated role within the university community to assist anyone who has been subjected to discrimination and/or harassment. Equity contacts provide advice on how the complaint procedures work, familiarise students and staff with options available to deal with a given situation, provide support and, if needed, direct the complainant to the relevant point of contact to initiate the investigation process. Equity Contacts are coordinated through the People, Talent and Culture Unit.

**University community** refers to all students and staff in relation to UniSA related conduct.

**Unproven complaint** refers to a complaint where findings are unsubstantiated.

**Victimisation** occurs if a person commits, or threatens to commit, an act against a complainant or respondent, or another person acting in support of a complainant or respondent as a result of that complaint.

## Section I – Policy

### 1. General Principles

- 1.1. Sexual assault and sexual harassment are unacceptable forms of behaviour that cause distress and are detrimental to UniSA's community. Sexual assault and sexual harassment erode the rights of the individual, undermine morale and interfere with the safety and effectiveness of the work and learning environment.
- 1.2. Fostering a culture that is intolerant of sexual assault and sexual harassment will encourage respect, safety and inclusion. Effective primary prevention through education and training to address sexual assault and sexual harassment, along with swift and decisive action when such behaviour is reported to have occurred, are all vital preventative measures.
- 1.3. UniSA recognises that sexual assault and sexual harassment may be experienced by any person regardless of their sexuality or gender identity. UniSA acknowledges that people from vulnerable population groups may be subjected to sexual assault or sexual harassment at higher rates than others. The support provided by the university will be tailored to complainants' respective needs.

- 1.4. All members of the university community have a right to expect professional behaviour from others, and a corresponding responsibility to behave professionally towards others. All members of the university community have a personal responsibility to comply with, and demonstrate active commitment to, this policy and related procedures.
- 1.5. The Executive Director: People, Talent and Culture (ED: PTC) and the Pro Vice Chancellor: Student Engagement and Equity (PVC: SEE) have direct responsibility for overseeing the implementation and monitoring of compliance with this policy and its procedures. All complaints of sexual assault and sexual harassment are provided to ED: PTC and/or PVC: SEE depending on if it relates to a student, a staff member, or a visitor on campus. Information regarding a complaint or investigation will only be shared with persons who need to know and are required to advise the ED: PTC and/or PVC: SEE.
- 1.6. The Executive Director: People, Talent and Culture and Pro Vice Chancellor: Student Engagement and Equity are responsible for monitoring and reporting all complaints of sexual assault and sexual harassment. The reporting will be undertaken in accordance with Work, Health and Safety requirements and other legislative frameworks.
- 1.7. All members of the university community have a duty to take all reasonable steps to eliminate sexual assault and sexual harassment undertaken by or directed towards staff, students or other members of the university community.
- 1.8. Complaint processes to support disclosure and reporting of sexual assault and sexual harassment are intended to be simple, accessible and available through multiple avenues.
- 1.9. In all instances where a complaint has been received, UniSA has a responsibility to take appropriate action to ensure the safety of the complainant, the university community and any identified third party. Consequently, early reporting of complaints is encouraged as it enables access to more effective support and investigation.
- 1.10. Complaint resolution procedures aim to be [trauma-informed](#), and will be conducted in accordance with the principles of [natural justice](#). All information concerning sexual assault and sexual harassment will be treated in confidence as far as possible and unnecessary disclosure may give rise to disciplinary action. Information will only be shared on a need to know basis in order for the appropriate supports to be put in place to address the complaint or to comply with legal obligations.
- 1.11. [Confidentiality](#) and information privacy will be upheld, in accordance with legislative requirements and UniSA's policies and procedures.
- 1.12. Action may be taken against anyone who victimises or retaliates against a complainant or a respondent, or a support person of either a complainant or a respondent.
- 1.13. Nothing in this policy detracts from the provisions contained in relevant UniSA statutes, industrial instruments and by-laws, and any action arising from a complaint will be implemented in accordance with these statutes, industrial instruments and by-laws where applicable.
- 1.14. A person has the right to lodge a complaint with an external body at any point. Where this occurs, UniSA may take further action in response to the complaint following (or, provided

that it does not compromise the external body's investigation, in parallel with) the external body's determination.

- 1.15. Under the Children and Young People (Safety) Act 2017 the university is required to make a mandatory report to the Child Abuse Report Line in relation to complaints of sexual assault which have occurred within South Australia where the complainant is aged under 18.

## **2. UniSA's response to complaints of sexual assault and sexual harassment**

- 2.1 UniSA's response to complaints about sexual assault and sexual harassment will be based on the following principles:

- a) All members of the university community are entitled to make a complaint.
- b) Complaints can be made to the first responders, through the web portal or by contacting the Counsellor and Training Coordinator (Sexual Assault and Sexual Harassment). Anonymous complaints can be submitted through the web portal.
- c) A complaint may take the form of a disclosure of sexual assault or sexual harassment, or may lead to a report of sexual assault or sexual harassment. The university will support a complainant by ensuring that they understand the options available to them when pursuing their complaint.
- d) Safety is of paramount importance and will be the focus of any immediate actions.
- e) Actions will vary depending on the circumstances of the complaint, and whether the complainant wishes to disclose or to report the incident. In the case of anonymous complaints, it may not be possible for an investigation to be initiated for reasons of procedural fairness and natural justice.
- f) Individuals who make, or who are the subject of a complaint, will be treated fairly and in a supportive manner.
- g) Complaints submitted through the web portal will be acknowledged within a reasonable timeframe.
- h) When a complainant reports an incident of sexual assault or sexual harassment, an investigation will be initiated within a reasonable timeframe.
- i) Investigation procedures will adhere to the principles of natural justice and will be undertaken by a person with relevant expertise.

## **3. Outcomes of complaints of sexual assault and sexual harassment**

- 3.1 There are five potential outcomes arising from a complaint about an incident of sexual assault or sexual harassment. One or more of the following outcomes may apply:

- a) referral to a specialised counselling and medical service (such as Yarrow Place Rape and Sexual Assault Service) or UniSA support person such as the Counsellor and Training Coordinator (Sexual Harassment and Sexual Assault) or other member of the Student Engagement Unit Counselling Team; and/or
- b) potential disciplinary action for the respondent such as suspension, expulsion or program leave (if they are a student), or counselling and/or disciplinary action (if they are a staff member); and/or
- c) identification of any changes in university policies, procedures, training or contractual arrangements; and/or
- d) police investigation and possible prosecution via the relevant criminal justice system

in the state, territory or country where the sexual assault took place for sexual assault offences. Complaints of sexual harassment may result in further investigation or conciliation, as determined by the EOC or AHRC.

- e) Where there is an [unproven complaint](#), no action.

#### **4. Review Mechanisms**

- 4.1 Where the complainant is a student and is dissatisfied with the management of the complaint they can contact the UniSA [Student Ombud](#), or in the event of dissatisfaction with the outcome, they can refer to the State Ombudsman.
- 4.2 Where the complainant is a staff member and is dissatisfied with a decision or act of the university they should refer to the provisions listed in [Staff Appeals Policy \(HR-6.4\)](#).

## **Section II – Responsibilities**

### **5. Responsibilities and/or authorities**

- 5.1 All members of the university community are responsible for contributing to and maintaining a harassment-free environment.
- 5.2 Under the Children and Young People (Safety) Act 2017, all employees of the university are required to make a mandatory report where a member of the university community within South Australia under the age of 18, is at risk of harm or abuse.
- 5.3 Any member of the university community who is approached by someone wishing to discuss a possible instance of sexual assault or sexual harassment should support that person in accessing and talking with a trained [first responder](#).
- 5.4 All members of the university community must respect the rights of both the complainant and respondent in line with natural justice.
- 5.5 Staff who provide or access information relating to any complaint are responsible for ensuring that appropriate confidentiality is maintained.

#### **5.6 Responsibilities of Managers and Supervisors**

- 5.6.1 Managers and [Supervisors](#) are responsible for understanding relevant legislative requirements and for making every effort to ensure that the workplace and study environment is respectful, safe and free from sexual assault and sexual harassment. Managers and Supervisors are accountable for the effective functioning of their workplace and this includes taking reasonable steps to eliminate instances of sexual assault and sexual harassment.
- 5.6.2 Managers and Supervisors are expected to familiarise themselves with this policy and the processes it supports, and are required to:
  - a) ensure that staff members in their area, and anyone they may engage to provide a service for UniSA, are aware of this policy;
  - b) reinforce that sexual assault and sexual harassment will not be tolerated;

- c) arrange and/or support staff development initiatives to raise awareness of respectful behaviour and the procedures for dealing with sexual assault or sexual harassment;
- d) provide a model of behaviour and conduct in line with the principles of this policy;
- e) participate in an investigation when required; and
- f) take prompt and responsible action in response to any complaint of victimisation.

5.6.3 In instances where a Manager/Supervisor considers that they may have observed behaviour that could constitute sexual assault or sexual harassment, they are required to take reasonable steps to stop it or to prevent it from happening again. This may include advising the person(s) involved that the behaviour could give offence and that the behaviour should cease immediately. Subsequent behaviour will be monitored and further action may be taken in accordance with this policy should the behaviour continue.

5.6.4 If a Manager/Supervisor is made aware by a third party that they consider that sexual assault or sexual harassment may be occurring in their area of responsibility they should observe and monitor the area and/or seek further advice from a first responder as detailed in 5.7 below.

## 5.7 First responders

The following UniSA staff roles have a responsibility as a first responder to report an incident of sexual assault or sexual harassment:

- a) Specifically trained counselling staff can provide psychological and emotional support, assist with safety planning and make referrals to other services, including medical services.
- b) Student Counsellors, the Counsellor and Training Coordinator (Sexual Harassment and Sexual Assault), Access and Inclusion Advisors, Security staff, and [UniSA Equity Contacts](#) are equipped to receive complaints from students about incidents of sexual assault or sexual harassment.
- c) Manager Business Partnerships (People, Talent and Culture), Security staff and UniSA Equity Contacts can receive complaints by staff members in relation to incidents of sexual assault and sexual harassment.
- d) Executive Director: People, Talent and Culture, Pro Vice Chancellor : Student Engagement and Equity and the Chair of the [Students at Risk Committee](#) are equipped to ensure that an investigation is warranted based on a referral from a first responder and that due process is followed when investigating complaints under the Sexual Assault and Sexual Harassment Policy. They will also communicate outcomes of investigations, and outline review or grievance mechanisms.

## Section III – Procedures

### 6. Disclosing, reporting and investigating sexual assault and sexual harassment

#### 6.1 Making a disclosure

Disclosure is one type of complaint that can be made about an incident of sexual assault or

sexual harassment. It is important to note that making a disclosure will not start an investigation. A complainant must choose to report an incident of sexual assault or sexual harassment before an investigation can begin.

A complainant can disclose an incident of sexual assault or sexual harassment without the details being shared with any other person, including the member of the university community who has inflicted the alleged sexual assault or sexual harassment. However, in all instances, UniSA has a responsibility to do the following:

- take any action to ensure the safety of the complainant, the university community and any identified third party; and
- make a mandatory report of suspicion of sexual assault or sexual harassment occurring to any member of the university community under the age of 18 under the Children and Young People (Safety) Act 2017.

Those who have been subjected to sexual assault or sexual harassment are encouraged to seek support as soon as they are able to do so. While they are encouraged to ultimately report the incident in order to allow it to be investigated, disclosure as a first (or only) step, will enable support to be provided.

## **6.2 Process for disclosing**

6.2.1 The complainant may choose to confide in any other member of the university community in relation to an incident of sexual assault or sexual harassment.

6.2.2 If the latter is not a first responder, as specified in this policy, the person should support the complainant in accessing and talking with a trained first responder.

6.2.3 Once the complainant has disclosed to a first responder, the first responder will:

- a) provide referral to the appropriate support services including contact information;
- b) provide assistance with making a report to the university if the complainant chooses to do so; or
- c) document disclosures they receive by using the web portal on the university's website.

## **6.3 Making a report**

A complainant may decide to report an incident of sexual assault or sexual harassment. A complainant may disclose an incident of sexual assault and sexual harassment to a member of the university community, then decide to make a report. Alternatively, a complainant may choose to report an incident, without separately making a disclosure. Reporting an incident of sexual assault or sexual harassment will initiate an investigation within UniSA.

Where a member of the university community receives a disclosure of sexual assault or sexual harassment they must relay this information to a first responder as soon as possible. The member of the university community must respect and maintain confidentiality of the parties involved.

## **6.4 Process for reporting (flowcharts attached in Appendix 1)**

6.4.1 A member of the university community may report an incident of sexual assault or sexual harassment by raising it with a first responder. The complainant could also report the incident directly by using the web portal on the university's website. The report via this portal will be provided directly to the Executive Director: People, Talent and Culture or Pro Vice Chancellor: Student Engagement and Equity.

If the complainant makes a report to a first responder they will:

- a) provide referral to the appropriate support services including contact information;
- b) refer the matter to the Executive Director: People, Talent and Culture or Pro Vice Chancellor: Student Engagement and Equity, as appropriate, to receive the report and enable an investigation to be initiated; and
- c) support the complainant in reporting the incident to the police if the complainant chooses to do so.

6.4.2 An investigation will be undertaken, following the principles of natural justice, in a manner that is respectful to both the complainant and the respondent. The importance of confidentiality will be reinforced to the complainant, the respondent and any support people for both parties.

- d) If the respondent is a student, the report will be referred to the Pro Vice Chancellor: Student Engagement & Equity to initiate an investigation.
- e) If the respondent is a staff member or is engaged by UniSA under any other contractual arrangement, the report will be referred to the Executive Director: People, Talent and Culture to initiate an investigation or appropriate response.

6.4.3 Respondents will be provided with details of the complaint made against them, and will be given 10 working days, or such other time specified by the Executive Director: People, Talent or Culture or Pro Vice Chancellor: Student Engagement and Equity, to consider and provide a response to the complaint.

6.4.4 Where facts differ between the details provided by the complainant and the response provided by the respondent, witnesses may also be interviewed as a part of the investigation. Information will not be unnecessarily disclosed to witnesses, and the importance of confidentiality will be reinforced.

6.4.5 Information gathered during the investigation will be documented by the [investigator](#) and a report will be prepared. The decision about any action required arising from the outcome of the investigation will be made by:

- a) the Pro Vice Chancellor: Student Engagement & Equity if the respondent is a student; or
- b) the Executive Director: People, Talent and Culture if the respondent is a staff member; or
- c) the Managers or Supervisors of the relevant area(s), for any other contractual arrangements.

6.4.6 Where it is determined that a complaint is substantiated, UniSA will decide upon the appropriate disciplinary actions aligned with:

- a) appropriate bylaws and statutes, if the respondent is a student;

- b) the relevant enterprise agreement if the respondent is a staff member, or the relevant contract if the respondent has been engaged by the university under any other contractual arrangement.

## **7. Where the matter is reported to police**

If the matter has been reported to police, the university will not take any action that may compromise the police investigation or subsequent proceedings. UniSA will continue to make support resources available during this period. UniSA may take other interim measures to safeguard the complainant, respondent and other members of the university community following consultation with police.

On completion of the police investigation, the university may undertake appropriate actions in alignment with its policies, code of conduct and bylaws.

## **8. Where a complaint relates to a third-party provider**

If the respondent is affiliated with a third-party provider, UniSA will continue to support the complainant by providing access to university resources. The university will also ensure that the complainant is familiar with the reporting options and avenues available to them both within and outside the university.

## **9. Where a witness or observer reports a complaint**

If a member of the university community or any other person becomes aware or has observed an incident of sexual assault or sexual harassment they may make a complaint to UniSA or the police, however, they will need the consent of the person who has experienced the incident prior to making a report. It is important to ensure as much as possible that the person who has experienced the incident feels in control of the complaints process, as they may be required to actively participate in the process.

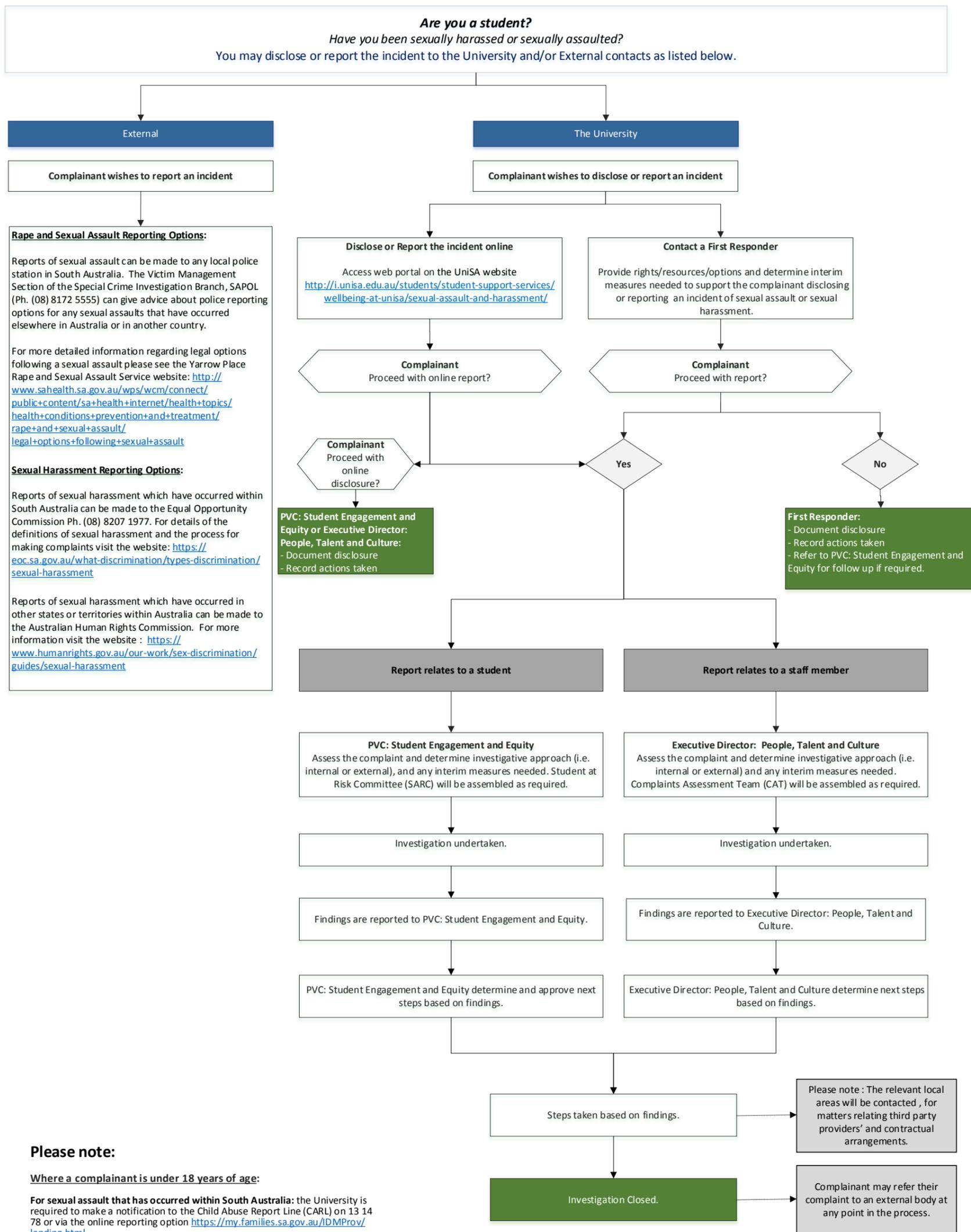
The university has a duty of care to ensure the safety of the broader university community and may need to take action in order to achieve this, including situations where a complainant may not wish to actively participate in a formal complaints process.

## **10. Right to withdraw a complaint**

A complainant has the right to withdraw a complaint at any stage of the process. However, UniSA may continue to act on the complaint to ensure the safety of the complainant and members of the university community.

# Appendix 1 – Disclosing or Reporting an incident of sexual assault and sexual harassment

## A. Process for disclosing and reporting (Students)



**Please note:**

**Where a complainant is under 18 years of age:**

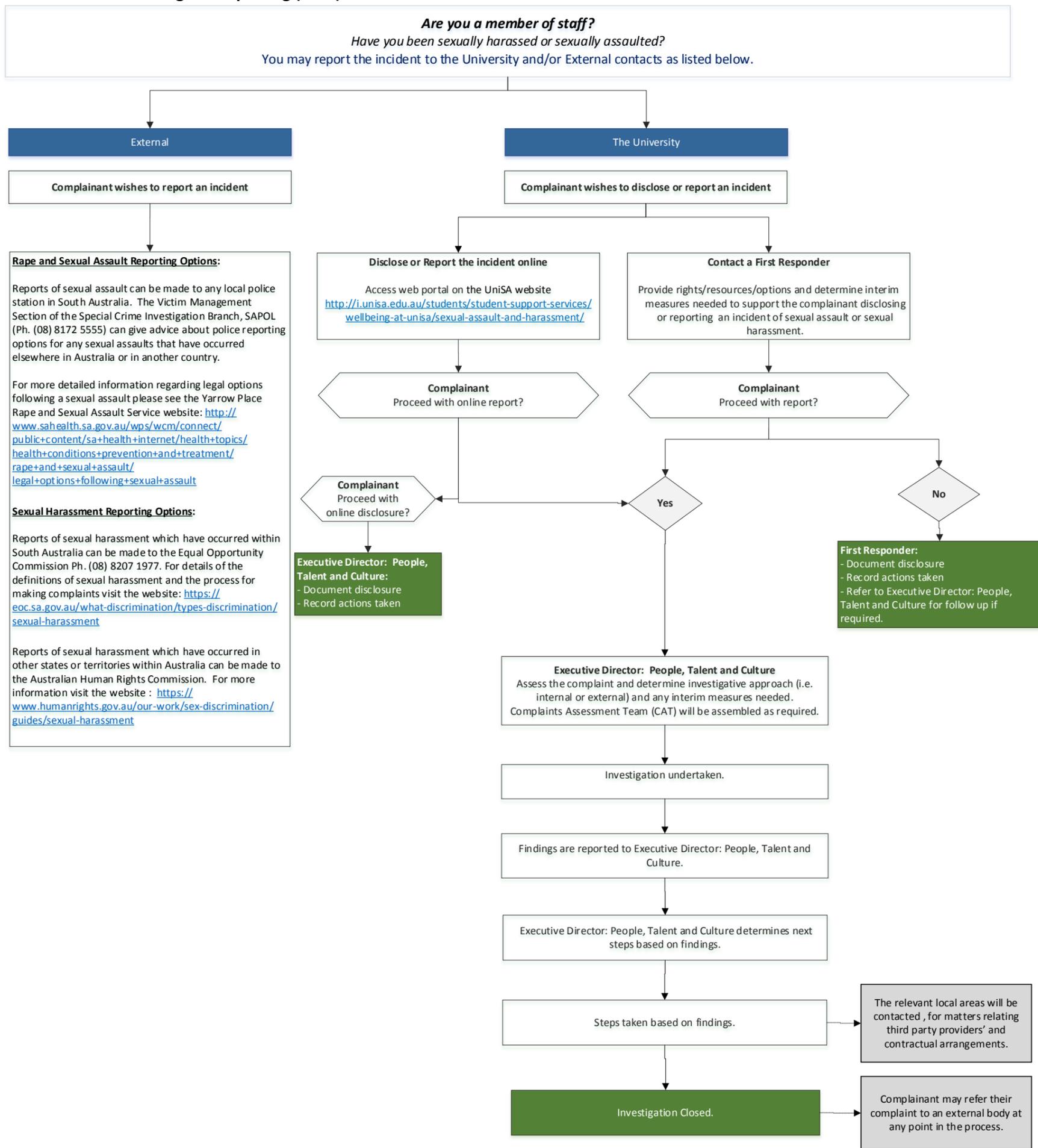
For sexual assault that has occurred within South Australia: the University is required to make a notification to the Child Abuse Report Line (CARL) on 13 14 78 or via the online reporting option <https://my.families.sa.gov.au/IDMProv/landing.html>

**Where a complainant relates to third party providers:**

All complaints relating to 'third party providers' will be investigated in accordance with University contract management procedures. Any breach of contract may result in penalties, cancellation or other sanctions to the third party, including referral to the police.

# Appendix 1 – Disclosing or Reporting an incident of sexual assault and sexual harassment

## B. Process for disclosing and reporting (Staff)



**Please note:**

**Where a complainant is under 18 years of age:**

For sexual assault that has occurred within South Australia: the University is required to make a notification to the Child Abuse Report Line (CARL) on 13 14 78 or via the online reporting option <https://my.families.sa.gov.au/IDMProv/landing.html>

**Where a complainant relates to third party providers:**

All complaints relating to 'third party providers' will be investigated in accordance with University contract management procedures. Any breach of contract may result in penalties, cancellation or other sanctions to the third party, including referral to the police.