



## Context and Purpose

The purpose of this Procedure is to:

- a. outline the University's processes for responding to Disclosures and Complaints of sexual harm where the respondent is a UniSA staff member or a Third Party; and
- b. 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 staff member and a student, the University will determine whether this Procedure or the Sexual Harm Procedure: Students 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. Any person who has witnessed, or become aware of, an incident/s of sexual harm should disclose the incident via the University's online system.
3. All Disclosures and Complaints will be treated confidentially, 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.
4. 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.
5. The University will not tolerate any retaliatory or other adverse action taken or threatened against another person because of their involvement in making Disclosures or Complaints 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 People, Talent and Culture Unit.

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## Procedure

### A. Making a Disclosure of Sexual Harm

6. 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**.

7. **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.
8. 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 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.
9. Where a Disclosure is made to a Designated First Responder they will:
  - 9.1. provide information about support services;
  - 9.2. explain the process for making a Complaint to the University;
  - 9.3. document the Disclosure through the University's online system.
10. 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 People, Talent and Culture Unit.
11. Where a Disclosure is made via the University's online system and it relates to the actions of a UniSA staff member, it will be directed to the responsible team in the People, Talent and Culture Unit. The team will:
  - 11.1. review the information provided in the University's online system and, where contact details have been provided, make contact with the person within one (1) working day of the Disclosure being received (unless the person indicated they do not wish to be contacted);
  - 11.2. provide information on wellbeing support and external services.
12. The team then undertakes a preliminary assessment and:
  - 12.1. where the Disclosure falls outside the scope of this Procedure, will direct the person to the relevant area or process;
  - 12.2. outline options available to the person to help them determine the next steps they may wish to take. Options include:
    - 12.2.1. requesting the University put in place supportive/interim measures; and/or
    - 12.2.2. making a Complaint to the University; and/or
    - 12.2.3. making an external Complaint (e.g., police or other external agency) with the assistance of the responsible team in People, Talent and Culture as needed; or
    - 12.2.4. taking no further action.
13. The University recognises the person who experienced sexual harm may choose to make a Disclosure but 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:
  - 13.1. take any action to ensure the safety of the person, the University Community, and/or any identified third party; and

- 13.2. 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.
14. Where the University determines there is a serious or imminent risk to health or safety of any person (refer Clause 6 a), the University may take action in relation to a Disclosure without the consent of the person who experienced the sexual harm.
15. In coordinating the University's response to a Disclosure or Complaint of sexual harm, the People, Talent and Culture Unit may need to involve other internal stakeholders.
16. A person may make a Disclosure of 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.
17. Complaints made to the University will be investigated in line with **Section B** of this Procedure.
18. A person may choose to report an incident of sexual harm to the police or another external authority at any time (refer **Section F** of this Procedure).

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

19. Where a Complaint of sexual harm is investigated, the investigation will be initiated by PTC (in accordance with Clause 61 of the Enterprise Agreement) within a reasonable timeframe, in a manner that is respectful to both the complainant and the respondent.
20. Complaints will be investigated, following principles of **natural justice** and **procedural fairness**.
21. Any investigation into Complaints of sexual harm will assess whether, on 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 codes of conduct (as applicable to the respondent).
22. Where the University investigates a Complaint of sexual harm any findings made will be in relation to alleged staff misconduct/serious misconduct, not criminal matters. The University's investigation process is not a substitute for a criminal investigation conducted by the police.
23. Both the complainant and respondent may bring a **support person** to meetings and discussions regarding the Complaint.
24. 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.
25. 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**

26. 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.
27. Interim measures are temporary restrictions or requirements in response to a Disclosure or Complaint of sexual harm, pending resolution of the Disclosure or Complaint.

28. Interim measures for staff will be determined as relevant to the specific circumstances of the incident and will be implemented in accordance with the University's enterprise agreement, policies, procedures and by-laws.

#### **D. Investigation outcomes**

30. In the event the Investigator determines the allegations of sexual assault or sexual harassment against a staff member are substantiated on the balance of probabilities, any disciplinary action will be determined in accordance with Section 9 (Clause 61.16) of the Enterprise Agreement.

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

31. Where the complainant or respondent is a staff member and they are dissatisfied with an action or decision of the University in relation to the Sexual Harm Policy or this Procedure, they should refer to Clause 57 of the Enterprise Agreement or the Staff Appeals Policy.
32. If allegations of sexual assault or sexual harassment against a staff member are substantiated and an outcome is determined in accordance with Clause 61.16 of the Enterprise Agreement or other contract of employment, the respondent should refer to Clause 62 of the Enterprise Agreement.
33. 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**

33. It is for the complainant to decide whether or not they report the incident/s to the police or an external agency. The University will respect the complainant's decision and will continue to provide information and support to the complainant.
34. A person who has been sexually assaulted is encouraged to report the incident/s to the police.
35. A person who has been sexually harassed can choose to report the incident/s to the Equal Opportunity Commission (South Australia) or to the Australian Human Rights Commission.
36. When reporting any Disclosures or Complaints 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.
37. 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.
38. 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 support the complainant while waiting for the outcome of any external investigation.
39. 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.

#### **A. Where a Disclosure or Complaint relates to UniSA Council Members or specific Senior Staff Members**

40. Where a Disclosure is about:
  - a. A member of the University Council (other than the Chancellor; the Vice Chancellor; an elected University staff member; Chair of Academic Board or a University student

representative), the Disclosure will be referred to and managed by the Chancellor and the Executive Director: People, Talent and Culture.

- b. The Chancellor, the Disclosure will be referred to and managed by the Deputy Chancellor and the Executive Director: People, Talent and Culture.
  - c. The Vice Chancellor, the Disclosure will be referred to and managed by the Senior Remuneration Committee of Council.
  - d. The Executive Director: People, Talent and Culture, the Disclosure will be referred to and managed by the Vice Chancellor or their nominee.
41. Where a Complaint is made about a member of the University Council, the Chancellor, the Vice Chancellor or the Executive Director: People, Talent and Culture, it will be referred for external investigation.
42. Where a Disclosure or Complaint is about an elected University staff member, Chair of Academic Board, or a University student representative on Council, the Disclosure or Complaint will be managed in accordance with this Procedure or the Sexual Harm Procedure: Students.

#### **B. Where a Disclosure or Complaint relates to a Third-Party Provider**

45. Where a Disclosure or Complaint is about a Third-Party Provider, the Complaint will be managed under the Sexual Harm Procedure: Staff.
46. If a Complaint is received by the University from a person who alleges sexual harassment or sexual assault by an employee of a third-party provider, a complaints assessment team (CAT) will be convened by the Executive Director: People, Talent and Culture to determine the appropriate approach and assign key responsibilities. The composition of the CAT will be determined by the Executive Director: People, Talent and Culture with regard for the specific details of the Complaint.
47. The CAT will determine appropriate measures to manage the Complaint including:
- 47.1 Appointing a support person (i.e. a counsellor for a student or a People, Talent and Culture Strategic People Partner for a staff member) to communicate with and support the complainant through resolution of the Complaint.
  - 47.2 Appointing a case manager to liaise with the third-party provider and the contract manager (as necessary) in relation to resolution of the complaint. The case manager will be appointed based on their capability to manage the complaint.
  - 47.3 The Executive Director: People, Talent and Culture will determine any necessary interim measures to be adopted during resolution of the Complaint in line with this Procedure or the Sexual Harm Procedure: Students.
48. The Executive Director: People, Talent and Culture has oversight of the management of the outcome of the Complaint on behalf of the University including liaison with the third-party provider and ensuring support for and communication with the complainant throughout the process.
49. The case manager and support person are responsible for advising the Executive Director: People, Talent and Culture of the actions required and undertaken by the third-party provider.
50. The case manager will provide the Executive Director: People, Talent and Culture with a summary of the outcome of the process.

51. The Executive Director: People, Talent and Culture will provide advice on the outcome of the process to the complainant in writing.

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**Related Documentation**

- > Sexual Harm Policy
- > Sexual Harm Procedure: Students

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

**Approving Authority:** Council

**Commencement Date:** TBD

**Review Date:** TBD

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

- > Sexual Assault and Sexual Harassment Procedure