

Sexual Harm and Harassment Prevention and Response Guidelines

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Emergency Contact and Support Numbers

In an emergency, contact the police on 000

For university support and counselling services, please visit the [Respect.Now.Always - We can help page](#) or contact:

- * The Student Grievance Unit: provides confidential and anonymous assistance. Ph: 02 6773 4260 or 02 6773 3994 during office hours (9.00 am to 4.00 pm, Monday to Friday).
- * Counselling for Students: UNE Counselling and Psychology services is a free professional and confidential counselling service. Ph: [02 6773 2897](#) during office hours (9.00 am to 4.00 pm, Monday to Friday).
- * Counselling for Staff: the Employee Assistance Program (EAP) is a professional, independent and confidential counselling service arrangement through [Centacare New England North West](#). Ph: 02 6738 7200 between 8am-5pm, Monday to Friday.
- * Campus Safety and Security: provide 24/7 assistance for situations on campus. Ph: 02 6773 2099

Section 1 - Overview and Scope

(1) UNE has a zero tolerance approach to sexual harm and harassment, and is committed to providing a learning, work and social environment that is free from sexual harm and harassment.

(2) These Guidelines outline UNE's commitment and proactive approach to preventing sexual harm and sexual harassment and the support available at the University to respond to sexual harm. These Guidelines have the effect of a Policy and apply to all Students, staff and other UNE Representatives.

(3) These Guidelines apply to recent and/or historical sexual harm and harassment regardless of where an incident(s) has occurred, including off-campus or via online platforms or tools. Support is available in all circumstances of sexual harm and harassment, however for complaints to be investigated, they must be deemed sufficiently connected to UNE study or employment.

(4) These Guidelines do not apply to:

- a. Sexual harm relating to a child who is under the age of 16 (the legal age of sexual consent in NSW is 16 years of age). These incidents are managed through the Child Protection Policy.
- b. The investigation process of any complaints of sexual harm or harassment. The complaints process is managed through the [Student Behavioural Misconduct Rules](#), the UNE Academic and English Language Teaching Staff

Enterprise Agreement 2020-2022, and the UNE Professional Staff Enterprise Agreement 2019-2022.

- c. Incidents of staff bullying and harassment (excluding sexual harassment) which are managed through the [Prevention of Harassment, Bullying and Discrimination Policy](#) and the [Prevention of Harassment, Bullying and Discrimination Procedures](#).

(5) Within these Guidelines:

- a. Part A deals with responding to sexual harm and harassment;
- b. Part B deals with prevention and proactive action;
- c. Part C deals with privacy, confidentiality and recordkeeping.

Part A - Responding to Sexual Harm and Harassment

(6) The process for disclosure and reporting sexual harm and harassment is outlined in the [Disclosure and Reporting flow chart for staff and students](#).

(7) Students, staff and all other UNE Representatives are encouraged to contact the [University Support Services](#) about an incident/s of sexual harm or harassment in order to seek internal and/or external support and/or make a report or complaint. The University Support Services include the Safety and Security Team, the Student Grievance Unit, Human Resources Directorate and Counselling Services for staff and students.

(8) The [University Support Services](#) will respond and provide advice and support to students, staff and all other UNE Representatives in relation to any matter involving sexual harm, regardless of whether a subsequent report or complaint is made.

(9) Students, staff and associates can provide information to the [University Support Services](#) about an incident/s of sexual harm or harassment anonymously and can choose not to identify the other person/people involved. The University's ability to respond may be impacted if the information provided is incomplete.

(10) The [University Support Services](#) will respond to any information provided by an individual/s relating to sexual harm by:

- a. focusing on their needs and wishes;
- b. supporting them to make informed decisions;
- c. taking a compassionate, non-judgemental, empathetic and supportive approach which, where possible, avoids further distress or trauma;
- d. coordinating all internal University supports and assisting engagement with external specialist support and response services (where requested); and
- e. undertaking actions in accordance with other University policies, including the [Student Behavioural Misconduct Rule](#) and Staff Code of Conduct (where requested).

(11) The University does not investigate criminal offences. This is the responsibility of the Police should a student, staff member or associate choose to report this externally.

(12) Subject to consideration of the wishes of the person reporting an incident of sexual harm or harassment, students and staff will be held accountable for their behaviour and appropriate disciplinary action may be taken.

(13) A student, staff member or other UNE Representative must not victimise or otherwise subject another person to detrimental action as a consequence of that person raising, providing information about, or otherwise being involved in the support of an individual who has experienced sexual harm. The [Prevention of Harassment, Bullying and Discrimination Policy](#) and the [Student Behavioural Misconduct Rules](#) provide processes for responding to allegations of

victimisation.

(14) If an individual submits a formal complaint and is unsatisfied with the resolution, they can make an external complaint via the [NSW Ombudsman](#), [NSW Civil and Administrative Tribunal](#), or the [Tertiary Education and Quality Standards Agency \(TEQSA\)](#).

Part B - Prevention and Proactive Action

(15) UNE aims to prevent sexual harm and harassment by:

- a. providing regular education, training and communication in person and through UNE's [UNE's Respect Now Always](#) webpage to all UNE Representatives and targeted training for staff with honours or higher degree by research supervisory responsibilities, for Residential Student Leaders and for staff who are student-facing and/or are likely to receive disclosures of sexual harm or harassment;
- b. setting clear and uncompromising standards of behaviour and strengthening our culture to be inclusive, safe and respectful;
- c. encouraging students, staff and all other UNE Representatives to disclose and provide information regarding any incident of sexual harm or harassment;
- d. promoting and encouraging active bystander intervention;
- e. informing and empowering students, staff and all other UNE Representatives to respond compassionately and effectively to any information they receive in relation to sexual harm and harassment, and to attitudes and behaviours which contribute to sexual harm and harassment;
- f. ensuring education, training and resources meet the needs of the diverse University community and higher risk cohorts;
- g. partnering and collaborating with external agencies; and
- h. implementing precautionary measures when required.

(16) All students, staff and all other UNE Representatives have a responsibility to:

- a. foster a study, work and social environment free from sexual harm and harassment, where all members of the University community are treated with dignity, courtesy and respect;
- b. engage in bystander action when safe to do so and follow reasonable directions by the University to reduce health and safety risks; and
- c. respond in a compassionate, empathetic and supportive manner to any person who discloses that they have experienced, witnessed or have information about sexual harm or harassment and to actively support the person to connect with UNE's [support services](#). Information on how to respond to disclosures of sexual harm is available on the Respect Now Always webpage.

Part C - Privacy, Confidentiality and Record keeping

Privacy and Confidentiality

(17) UNE understands that disclosures of personal information and matters relating to sexual harm and harassment must be treated with the utmost respect and sensitivity. All information will be managed in accordance with relevant Australian Privacy legislation outlined in UNE's [Privacy Management Rule](#).

(18) Disclosures will be treated in the strictest confidence and recorded only in de identified terms.

(19) Where a formal complaint is made, access to information relating to a disclosure or complaint of sexual harm or harassment will be restricted to University staff who have a need to access and use the information in order to carry

out their responsibilities under these guidelines or the associated principles. This includes the subject of the complaint in accordance with the principles of procedural fairness.

Record keeping and reporting

(20) UNE will:

- a. keep appropriate records of all disclosures and complaints of sexual harm and sexual harassment in a secure location or transfer directly into UNE's Records Management system in accordance with the [Records Management Rule](#);
- b. keep appropriate records of any matters occurring in the Residential Colleges and University owned or affiliated student accommodation or other venues including Sport UNE and UNE Life, about disclosures and complaints of sexual misconduct and sexual harassment occurring at, or in connection with, them; and
- c. subject to the confidentiality requirements, allow reasonable access by students and former students to information about themselves.

(21) The University will collect, store and use de-identified information about disclosures and complaints by students and former students to identify trends and to develop targeted responses to sexual harm and sexual harassment in the University community.

(22) The University will publish annually or as deemed appropriate by the Vice-Chancellor, a de-identified report on the records kept of all disclosures and reports. All care will be taken when recording details of disclosures and reports and collating the incident report to ensure that no individual involved in a disclosure or complaint of sexual harm or sexual harassment can be identified.

Section 2 - Authority and Compliance

(23) The Vice-Chancellor and Chief Executive Officer makes these guidelines.

(24) UNE Representatives must observe these Guidelines in relation to University matters. University Representatives are encouraged to seek support and advice about any matters relating to sexual harm or harassment from Human Resources Services Directorate, the Respect Now Always Coordinator or the Student Grievance Unit and to play an active role in ensuring they receive the most up to date and relevant training and information.

(25) The Manager Student Grievance Unit and Director Human Resource Services will regularly monitor and report to the Vice-Chancellor and Chief Executive Officer on the operation of, and compliance with, these guidelines, including:

- a. information about implemented preventative actions, including completing of training and partnerships with external agencies;
- b. de-identified reports on disclosures and complaints regarding sexual harm and harassment; and
- c. any recommendations for changes to policies and processes for preventing and reporting sexual harm and harassment.

(26) These Guidelines are consistent with the [Anti-Discrimination Act 1997 \(NSW\)](#), [Sex Discrimination Act 1984 \(Cth\)](#), [Privacy and Personal Information Protection Act 1998 \(NSW\)](#), the [Privacy Act 1988 \(Cth\)](#), and the [Health Records and Information Privacy Act \(NSW\) 2002](#).

(27) These Guidelines operate as and from the Effective Date.

(28) Notwithstanding other provisions of these Guidelines, the Vice-Chancellor and Chief Executive Officer may approve an exception to these Guidelines where the Vice-Chancellor and Chief Executive Officer determines the

application of these Guidelines would otherwise lead to an unfair, unreasonable or absurd outcome. Approvals by the Vice-Chancellor and Chief Executive Officer under this clause must be documented in writing and must state the reason for the exception.

Section 3 - Definitions

(29) Consent: For the purposes of this policy, a person consents to a sexual act if they freely and voluntarily consent to the sexual act.

- a. A person is not able to freely and voluntarily consent to a sexual act when they are:
 - i. asleep or unconscious;
 - ii. significantly intoxicated or affected by drugs;
 - iii. intimidated, coerced or threatened, including when they are afraid of harm to themselves or someone else;
 - iv. unclear about the identity of the person performing the act;
 - v. tricked into doing something they do not want to do;
 - vi. detained or held against their will;
 - vii. under 16 years of age; or
 - viii. The person is pressured to engage in the sexual act by another person, who is in a position of power or authority over them.
- b. Students, staff, affiliates and visitors must make sure that consent to a sexual act is clear and obvious. The fact that a person does not say 'no' to, or does not physically resist, a sexual act does not of itself mean that they consent to it.
- c. A person is free to withdraw their consent at any time prior to or during a sexual act, for any reason.

(30) Sexual assault is where a person has sexual intercourse with another person without their consent and knows that the other person does not consent to the sexual intercourse (Crimes Act 1900 NSW).

(31) Sexual harassment is defined as an unwelcome sexual advance or unwelcome request for sexual favours or other unwelcome conduct of a sexual nature in relation to the person harassed in circumstances in which a reasonable person, having regard to all the circumstances would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

- a. What is reasonable? A range of considerations can have an impact on the determination of whether the conduct of a person is reasonable and these include: sex; age; sexual orientation; gender identity; intersex status; marital or relationship status; religious belief, race, colour, national/ethnic origin; physical or other impairment and nature of any relationship between the people involved.
- b. Sexual harassment can take various forms and may be obvious or indirect, physical or verbal, repeated or one off and can be conducted towards the same or opposite sex.
- c. Sexual harassment does not have to be continuous or repeated to occur. Some actions or conduct are so offensive that they can constitute sexual harassment as a one-off event or incident. Other single incidents, such as an unwanted invitation or compliment, are capable of not being considered sexual harassment, particularly should they not be repeated.
- d. Behaviour which is based on mutual attraction, friendship or respect and that is consensual, welcome and reciprocated, is not sexual harassment. Behaviour can become sexual harassment if the interaction changes from being based on mutual attraction, friendship and respect to non-consensual, unwelcomed and unreciprocated interactions.
- e. Sexual harassment may include but is not limited to:

- i. Physical contact – such as unwelcome touching, patting, pinching, embracing someone, kissing or deliberately brushing up against someone;
- ii. Verbal statements – questions about someone’s private life, insult or taunts of a sexual nature, suggestive comments or jokes, persistent and unwelcome invitations and requests for sex or sexual favours; and
- iii. Non-verbal actions – staring or leering, displays of materials of a sexual nature (e.g. posters, magazines or screen savers), offensive body or hand movements (including obscene gestures of a sexual nature such as simulating masturbation), accessing sexually explicit internet sites, the sending of sexually explicit emails or texts or inappropriate advances on social networking sites, or behaviour that may also be considered to be an offence under criminal law, such as stalking, indecent exposure or obscene communications.

(32) Sexual Harm: includes sexual assault, rape, and any other behaviour of a sexual nature that constitutes student or staff misconduct.

Examples of behaviours which constitute sexual harm include but are not limited to:

- a. being forced to watch pornography;
- b. indecent exposure including someone showing or “flashing” their genitals;
- c. taking an intimate (semi-nude, nude, while participating in sexual activity) digital image, photo or video without consent;
- d. sharing, showing or distributing an intimate (semi-nude, nude, while participating in sexual activity) digital image, photo or video without consent;
- e. possessing an intimate (semi-nude, nude, while participating in sexual activity) digital image, photo or video without consent.

Status and Details

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Effective Date	4th August 2020
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Glossary Terms and Definitions

"UNE Representative" - Means a University employee (casual, fixed term and permanent), contractor, agent, appointee, UNE Council member, adjunct, visiting academic and any other person engaged by the University to undertake some activity for or on behalf of the University. It includes corporations and other bodies falling into one or more of these categories.

"Student" - Is an admitted student or an enrolled student, at the relevant time: 1. an admitted student is a student who has been admitted to a UNE course of study and who is entitled to enrol in a unit of study or who has completed all of the units in the UNE course of study; 2. an enrolled student is a student who is enrolled in a unit of study at UNE.

"Code of Conduct" - A document (variously referred to as a 'Code of Ethics', 'Code of Behaviour' and various other titles) broadly communicated within the entity setting out the entity's expected standards of behaviour.

"University Representative" - University Representative means a University employee (casual, fixed term and permanent) contractor, agent, appointee, UNE Council member, adjunct, visiting academic and any other person engaged by the University to undertake some activity for or on behalf of the University. It includes corporations and other bodies falling into one or more of these categories.