

STAFF SEXUAL MISCONDUCT RESPONSE PROCEDURES 2020

Issued by: Chief Human Resources Officer
Dated: 25 September 2020
Last Amended: 22 March 2021 (administrative amendments)
Signature:
Name: Ms Karen Haywood

1 Purpose and application

- (1) These procedures are to give effect to the *Staff Sexual Misconduct Policy 2020* ('the Policy').
- (2) These procedures apply to all disclosures or complaints of sexual misconduct or sexual harassment made under the Policy.

Note: See clauses 12 and 13 of the Policy.

2 Commencement

These procedures commence on 6 October 2020.

3 Interpretation

Words and phrases used in these procedures and not otherwise defined in this document have the meanings they have in the Policy.

Note: For definitions, see clause 6 of the [Staff Sexual Misconduct Policy 2020](#).

Student Affairs Unit means the specialist staff within the office of the Registrar, who assist with the resolution of student complaints and reports of student misconduct in accordance with University policies and procedures.

Workplace Relations Advisor means a specialist member of staff within Workplace Relations, with responsibility for responding to disclosures and complaints of sexual misconduct and sexual harassment.

4 Responding to emergencies

Emergency contact information for current and former staff and affiliates who have experienced sexual misconduct or sexual harassment is set out in Schedule 1 to the Policy and Schedule 1 to these procedures.

5 Making a disclosure of sexual misconduct or sexual harassment

- (1) A current or former staff member or affiliate can make a disclosure of any incident of sexual misconduct or sexual harassment to the University's Safer Communities Office online anytime on the University's '[Sexual Misconduct](#)' web page, by email at safer-communities.officer@sydney.edu.au, or by calling + 61 2 8627 6808 or **1800 SYD HLP (1800 793 457)** from 9am to 5pm, Monday to Friday.

Note: Current and former staff members and affiliates who prefer to make a disclosure in person can call **1800 SYD HLP (1800 793 457)** to make an appointment.

- (2) A counsellor or support person, including an Employee Assistance Program staff member, may assist a current or former staff member or affiliate to make a disclosure.
- (3) Current and former staff members and affiliates may make disclosures anonymously by asking a colleague to make a disclosure on their behalf, or by calling from a private number.

Note: A current or former staff member or affiliate who chooses to make a disclosure of sexual misconduct or sexual harassment may later decide to make a complaint to the University about the same incident. See subclause 12(6) of the [Policy](#).

Note: The University will not investigate a disclosure, except in certain limited circumstances. See subclause 12(7) of the [Policy](#).

- (4) If the University needs to investigate a disclosure, the Safer Communities Office or a Workplace Relations Advisor may contact the person who made the disclosure to ask whether they would be prepared to make a complaint or to participate in an investigation process.

6 Making a complaint of sexual misconduct or sexual harassment

- (1) A current or former staff member or affiliate who has experienced sexual misconduct or sexual harassment can make a complaint to the University's Safer Communities Office online anytime on the University's '[Sexual Misconduct](#)' web page, by email at safer-communities.officer@sydney.edu.au, or by calling + 61 2 8627 6808 or **1800 SYD HLP (1800 793 457)** from 9am to 5pm, Monday to Friday.

Note: Current and former staff and affiliates who prefer to make a complaint in person can call **1800 SYD HLP (1800 793 457)** to make an appointment.

- (2) Complaints of sexual misconduct and sexual harassment will be referred to Workplace Relations, for handling in accordance with these procedures and the [Agreement](#).
- (3) Current and former staff and affiliates may be supported in their dealings with Workplace Relations by a counsellor or support person, including a Safer Communities Office or Employee Assistance Program staff member.
- (4) A counsellor or support person, including a Safer Communities Office or Employee Assistance Program staff member, may assist a current or former staff member or affiliate to make a complaint.
- (5) The making, investigation or resolution of a complaint under these procedures must be in accordance with the principles set out in the Policy.

- (6) Complainants are required to engage with the complaints process, and to provide sufficient details of their complaint to permit the University to conduct a preliminary assessment and investigation, as appropriate.
- (7) A current or former staff member or affiliate who has made a complaint of sexual misconduct or sexual harassment is free to withdraw it at any time. However, if the University has already commenced misconduct proceedings against a student, staff member or affiliate as a result of the complaint, those proceedings will (where practicable) be completed.

7 Supporting staff and affiliates who have experienced sexual misconduct or sexual harassment

- (1) Contact details for ongoing support and assistance for current and former staff and affiliates who have experienced sexual misconduct or sexual harassment are set out in Schedule 2 to the Policy and Schedule 2 to these procedures.
- (2) Staff and affiliates can seek advice and assistance with supporting a current or former staff member or affiliate who has experienced sexual misconduct or sexual harassment by contacting the Safer Communities Office, Staff Health Support Services or the Employee Assistance Program, as appropriate and preferred by the staff member or affiliate.
- (3) Staff and affiliates should:
 - (a) refer current and former staff and affiliates who have experienced sexual misconduct or sexual harassment to the Safer Communities Office and other available support services, and to the online portal and **1800 SYD HLP (1800 793 457)**; and
 - (b) advise current and former staff and affiliates of their right to make a disclosure or complaint.
- (4) Where appropriate, staff and affiliates should also seek advice from the University's Office of General Counsel on whether the matter should be reported to the NSW Police in accordance with clause 15 of the [Policy](#).
- (5) Staff and affiliates can support a current or former staff member or affiliate who has experienced sexual misconduct or sexual harassment by:
 - (a) listening without interrupting;
 - (b) letting them express how they feel and respecting the words they use in reference to the incident;
 - (c) letting the current or former staff member or affiliate know they believe what the staff member or affiliate is telling them and acknowledging their distress;
 - (d) letting the current or former staff member or affiliate know that the incident was not their fault;
 - (e) respecting their decisions;
 - (f) directing them to the available support services.

Note: When a current or former staff member or affiliate has experienced sexual misconduct or sexual harassment, they may express a range of emotional and physical symptoms. The [NSW Rape Crisis Service](#) website provides information on common impacts of sexual assault.

8 Supporting current staff and affiliates who have been accused of sexual misconduct or sexual harassment

Contact details for ongoing support and assistance staff and affiliates who have been accused of sexual misconduct or sexual harassment are set out in Schedule 3 to the Policy and Schedule 3 to these procedures.

9 Preliminary assessment of a complaint

- (1) Where a complaint relates to the alleged conduct of a staff member or affiliate, Workplace Relations will:
 - (a) acknowledge receipt within 5 working days and notify the complainant of the relevant next steps;
 - (b) obtain all relevant information from the complainant;
 - (c) refer all relevant parties to appropriate avenues of support and advice;
 - (d) assess the seriousness of the complaint; and
 - (e) recommend the appropriate course of action to deal with the complaint.
- (2) The preliminary assessment may involve, as appropriate:
 - (a) convening discussions with the relevant parties;
 - (b) collating and reviewing any relevant documentary material; and
 - (c) determining whether the matter is appropriate for assisted resolution under clause 10 or investigation under clause 11.
- (3) Workplace Relations will consult with the complainant during the preliminary assessment process.
- (4) Each of the parties may bring a support person to any discussion, including a Safer Communities Office or Employee Assistance Program staff member.
- (5) Where the complaint relates to the alleged conduct of a student:
 - (a) Workplace Relations must consult with and refer the complaint (as it relates to the student) to the Student Affairs Unit;
 - (b) Workplace Relations must advise the complainant of the referral; and
 - (c) the procedures set out in:
 - (i) clauses 9 to 12 of the [Student Sexual Misconduct Response Procedures 2018](#); and
 - (ii) clauses 8 to 15 of the [Student Complaints Procedures 2015](#);will apply in place of the procedures set out in clauses 10 to 15 below.
- (6) Workplace Relations may decide to take no further action where:
 - (a) the complainant has provided insufficient detail or evidence of the alleged conduct to enable the complaint to be properly assessed; or
 - (b) the complaint is frivolous, vexatious or malicious.
- (7) At the conclusion of the preliminary assessment, the delegate must, unless it is inappropriate in the circumstances, give the complainant and the respondent a written statement of the outcome of the preliminary assessment, which includes:

- (a) reasons for the outcome;
 - (b) details of any right to seek an appeal under clause 13.
- (8) Where reasonable, the preliminary assessment should be conducted within 20 working days of the lodgement of the complaint.
- (9) Where this timeframe is not reasonable, Workplace Relations must advise the complainant of the reasons for the delay, and of the projected timeframe for conclusion of the preliminary assessment.
- (10) Where a complaint about a staff member or affiliate alleges conduct that might, if proven:
- (a) constitute misconduct;
 - (b) involve possible criminal behaviour; or
 - (c) involve risk to others;

then Workplace Relations must refer the complaint to the Director, Workplace Relations for handling in accordance with the [Agreement](#) or, if appropriate, to the Office of General Counsel for consideration of whether the matter should be referred to the police in accordance with clause 15 of the [Policy](#).

10 Assisted resolution

- (1) Where the preliminary assessment in clause 9 determines that assisted resolution is appropriate:
- (a) resolution may include, but is not limited to:
 - (i) clarifying a misunderstanding;
 - (ii) an apology;
 - (iii) facilitated discussion, including mediation or conciliation;
 - (iv) an agreed plan of action to avoid further incidents; and
 - (v) implementing awareness-raising or educational sessions about behaviour;
 - (b) the relevant delegate may determine that guidance, counselling or a warning be given to a relevant party.
- (2) Where reasonable, the assisted resolution process should be completed within 20 working days of the preliminary assessment referred to in clause 9.
- (3) Where 20 working days is not reasonable, Workplace Relations must advise the complainant (and, where appropriate, the respondent) of the reasons for the delay, and of the projected timeframe for resolution.

11 Investigation of a complaint

- (1) Where assisted resolution is unsuccessful or considered inappropriate, the delegate must determine whether:
- (a) the complaint should be handled in accordance with the [Agreement](#); or
 - (b) the matter should be investigated in accordance with this clause.

Note: Where a complaint alleges conduct that might constitute misconduct, Workplace Relations must refer the complaint to the Director, Workplace Relations in accordance with clause 9(10).

- (2) Subject to the procedural fairness requirements prescribed in the [Resolution of Complaints Policy 2015](#) and clause 18 of the [Policy](#), investigators may determine their own procedures.
- (3) Investigators will provide respondents with:
 - (a) the allegations in sufficient detail to ensure that they have a reasonable opportunity to respond; and
 - (b) a reasonable period of time within which to respond to the allegations.
- (4) Investigators must make findings of fact and may make recommendations for resolving complaints, in accordance with University rules, protocols, policies and procedures. These recommendations may include a recommendation that the complaint be referred to the Director, Workplace Relations for handling in accordance with the [Agreement](#).
- (5) Investigators must give the University written reasons for their findings of fact and (if relevant) their recommendations. The reasons must provide enough detail for complainants and respondents to determine whether there are sufficient grounds for an appeal.
- (6) Where reasonable, the investigation should be concluded within 30 working days of its commencement.
- (7) Where 30 working days is not reasonable, Workplace Relations must advise the complainant (and, where appropriate, the respondent) of the reasons for the delay, and of the projected timeframe for conclusion of the investigation.
- (8) At the conclusion of the investigation, the relevant delegate must decide whether the matter should be referred for handling in accordance with the [Agreement](#).
- (9) If the matter is referred for handling in accordance with the [Agreement](#), Workplace Relations must inform the complainant in writing of the referral.
- (10) If the matter is not referred for handling in accordance with the [Agreement](#), the relevant delegate must:
 - (a) take into account the investigation findings and any recommendations of the investigator;
 - (b) give the complainant (and, where appropriate, the respondent) a written statement of the outcome of the complaint, which includes:
 - (i) reasons for the outcome; and
 - (ii) details of any right to appeal under clause 13.

12 Outcome of a complaint

- (1) The outcome of a complaint of sexual misconduct or sexual harassment will be determined by the findings of any investigation, the seriousness of the complaint and the wishes of the complainant.
- (2) If the complainant does not provide sufficient detail or evidence of a complaint about a student, staff member or affiliate to enable the alleged conduct to be

properly investigated, a finding of misconduct will not be made and the University will be unable to take disciplinary action against the respondent.

- (3) For complaints that result in misconduct proceedings:
 - (a) the [University of Sydney \(Student Discipline\) Rule 2016](#) sets out the process for establishing penalties for, and appeal rights from, findings of misconduct against a student.

Note: See sections 3.1 and 3.2 of the [University of Sydney \(Student Discipline\) Rule 2016](#).
 - (b) the [Agreement](#) sets out the process for establishing penalties for, and appeal rights from, findings of misconduct against a staff member.

Note: See clauses 3 and 384 of the [Agreement](#).
- (4) The delegate will inform complainants of the outcome of misconduct proceedings against students, staff members or affiliates, on a confidential basis. Where possible, this information will be delivered in person, to allow the complainant to ask questions and seek clarification about the effect of the outcome.

Note: See subclause 14(2) of the [Policy](#) in relation to the confidentiality of complaint outcomes.

13 Appeals

- (1) Appeals under this procedure may be made:
 - (a) by complainants and respondents where the matter has not been referred:
 - (i) in respect of staff misconduct proceedings, for handling in accordance with the [Agreement](#); or
 - (ii) in respect of student misconduct proceedings, for handling in accordance with the [University of Sydney \(Student Discipline\) Rule 2016](#);
 - (b) on the basis of an alleged failure of due process only. The University will not consider appeals based solely on the outcome of the complaint.
- (2) Potential appellants should contact Workplace Relations for information on appeals.
- (3) Appeals must be lodged:
 - (a) in writing with Workplace Relations; and
 - (b) within 20 working days of the date on which the appellant was notified of the outcome of the complaint.
- (4) In exceptional circumstances, as determined by the Director, Workplace Relations, in their absolute discretion, the Director, Workplace Relations may accept an appeal lodged out of time.
- (5) Appellants must set out in their written appeal their reasons for believing that due process has not been observed in the preliminary assessment or investigation.
- (6) The Director, Workplace Relations will assess whether an appeal has been validly made under this clause and must notify the appellant of the outcome of this assessment.

- (7) Appeals will be considered by the Chief Human Resources Officer, or another senior staff member who has not otherwise been involved in the complaint, and who does not have an actual or reasonably perceived conflict of interest.
- (8) Except at the absolute discretion of the staff member considering the appeal:
 - (a) appeals will be conducted on the basis of written material; and
 - (b) the scope of an appeal will be limited to a review of the preliminary assessment or investigation process.
- (9) Where reasonable, the appeal should be considered within 20 working days of its lodgement.
- (10) Where 20 working days is not reasonable, Workplace Relations will advise the appellant of the reasons for the delay, and of the projected timeframe for determination of the appeal.
- (11) At the conclusion of the appeal process, the staff member considering the appeal must, unless it is inappropriate in the circumstances, provide the complainant and the respondent with a written statement of the outcome of the appeal, including:
 - (a) reasons for the outcome; and
 - (b) details of any rights to make an external appeal.

14 Relationship between these procedures and the Agreement

- (1) If the respondent is covered by the Agreement:
 - (a) the assessment referred to in clause 9 will constitute the preliminary investigations or inquiries referred to in clause 384(a) of the Agreement;
 - (b) any resolution under clause 10 will constitute a resolution in accordance with clause 384(b) of the Agreement; and
 - (c) the provisions set out in these procedures constitute an alternative review of the complaint for the purposes of clause 456(c) of the Agreement.

15 Interim measures

- (1) If the relevant delegate imposes interim measures against a staff member or affiliate, they must provide a written notice to the staff member or affiliate within 24 hours:
 - (a) specifying the terms of the interim measures;
 - (b) specifying the period of the interim measures;
 - (c) summarising the reasons for the interim measures; and
 - (d) providing a copy of, or an electronic link to, the Policy and these procedures.

Note: Subject to subclause 15(7) of the Policy, the University will keep confidential all information relating to a disclosure or complaint of sexual misconduct or sexual harassment, unless the staff member or affiliate who made the disclosure or complaint consents to disclosure of part or all of the information. See subclause 14(1) of the [Policy](#).

- (2) Applications for internal review of interim measures must be lodged:

- (a) in writing to Workplace Relations;
 - (b) within 20 working days of the date on which written notice of the interim measures was provided to the staff member or affiliate.
- (3) Applications for internal review will be considered by the Chief Human Resources Officer.
- (4) Any internal review will be:
 - (a) conducted on the basis of the written and documentary material; and
 - (b) limited to a review of the term, period and reasons for taking the interim measures.
- (5) Where reasonable, the Chief Human Resources Officer will review the interim measures within 20 working days of the application for review.
- (6) Where 20 working days is not reasonable in the circumstances, or is not proportionate to the period fixed for the imposition of interim measures, Workplace Relations will advise the staff member or affiliate of the projected timeframe for completion of the internal review, with reasons.
- (7) At the conclusion of the internal review, the Chief Human Resources Officer will provide the staff member or affiliate with a written statement of the outcome of the review, including reasons.
- (8) Nothing in these procedures affects the power of:
 - (a) the delegate to suspend a staff member in accordance with the [Agreement](#); or
 - (b) a University representative to issue a Termination of License Notice in accordance with the [University of Sydney \(Campus Access\) Rule 2009](#).

16 Review

These procedures will be reviewed within two years of the date of commencement.

NOTES

Staff Sexual Misconduct Response Procedures 2020

Date adopted:	25 September 2020
Date commenced:	6 October 2020
Date amended:	22 March 2021
Administrator:	Chief Human Resources Officer
Review date:	6 October 2022
Rescinded documents:	Nil

Related documents: *Anti-Discrimination Act 1977 (NSW)*
Crimes Act 1900 (NSW)
Privacy and Personal Protection Information Act 1988 (NSW)
Sex Discrimination Act 1984 (Cth)
State Records Act 1988 (NSW)
Work Health and Safety Act 2011 (NSW)
University of Sydney Enterprise Agreement 2018-2021
University of Sydney (Delegations of Authority – Administrative Functions) Rule 2016
University of Sydney (Delegations of Authority – Academic Functions) Rule 2016
University of Sydney (Student Discipline) Rule 2016
Privacy Policy 2017
Recordkeeping Policy 2017
Staff Sexual Misconduct Policy 2020
Student Sexual Misconduct Policy 2018
Bullying, Harassment and Discrimination Prevention Policy 2015
Resolution of Complaints Policy 2015
Privacy Procedures 2018
Student Complaints Procedures 2015
Student Sexual Misconduct Response Procedures 2018

AMENDMENT HISTORY

Provision	Amendment	Commencing
5(1); 6(1);	Replace link to safer-communities.officer@sydney.edu.au	22 March 2021

SCHEDULE 1 – Emergency contacts

- (1) In an emergency, staff and affiliates should contact **emergency services** by dialling triple zero (**000**).
- (3) Staff and affiliates who feel unsafe on campus or are concerned for someone else's safety can also contact **Campus Security** on **9351 3333**, 24 hours a day.
- (4) Current and former staff and affiliates who have experienced sexual misconduct can contact:
 - (a) **NSW Rape Crisis Service 1800 424 017** or www.rape-dvservices.org.au, 24 hours a day, online counselling service available;
 - (b) **1800RESPECT 1800 737 732** National Sexual Assault, Domestic Family Violence Counselling Service or online via www.1800respect.org.au, 24 hours a day;
 - (c) **Lifeline 13 11 14** (online chat or video also available 7pm - midnight);
 - (d) **Mental Health Line (NSW) 1800 011 511**;
 - (e) **Suicide Callback Service 1300 659 467** (online chat or video also available 24 hours);
 - (f) **Blueknot Helpline 1300 657 380** (Available Mon-Sun, 9am-5pm AEST) or email on helpline@blueknot.org.au;
 - (g) **NSW Health Sexual Assault Services**
<https://www.health.nsw.gov.au/parvan/sexualassault/Pages/health-sas-services.aspx>;
 - (h) **Royal Prince Alfred (RPA) Hospital Sexual Assault Service** on **9515 9040** (Monday to Friday) or **9515 6111** (after hours). Counselling and medical services are available for anyone who has been sexually assaulted. Campus Security can arrange transport to RPA.
 - (i) **Westmead Hospital Sexual Assault Service** on **9845 7940** (daytime) or **9845 5555** (24 hours).
 - (j) **Blacktown/Mount DrUITT Sexual Assault Service, Blacktown Community Health Centre** on **9881 8700** (daytime) or **9845 5555** (24 hours).

SCHEDULE 2 – University support for current and former staff and affiliates who have experienced sexual misconduct or sexual harassment

- (1) A current or former staff member or affiliate who has experienced sexual misconduct or sexual harassment can make a disclosure or a complaint to the University online on the University's ['Sexual Misconduct' web page](#) or by calling **1800 SYD HLP (1800 793 457)** from 9am to 5pm, Monday to Friday.
- (2) Staff members and affiliates who have experienced sexual misconduct or sexual harassment have access to a range of University support services and assistance, including:
 - **Safer Communities Office** 8627 6808, 1800 SYD HLP (1800 793 457) (option 2, then option 1), safer-communities.officer@sydney.edu.au;
 - **Employee Assistance Program** - Benestar on **1300 360 364**;
 - **staff health support** on **9351 4052**, 8:30am to 5pm, Monday to Friday;
 - **security services** - contact Campus Security on **9351 3333**, 24 hours a day;
 - **health services** (for current staff and affiliates only) - contact the University Health Service on **9351 3484**, 8:30am to 5pm, Monday to Friday;
 - **staff unions** – NTEU Sydney Branch **9351 2827** or sydney@nteu.org.au (for NTEU members only); CPSU **1300 137 636** or members@cpsu.org.au.
- (3) Former staff members and affiliates who have experienced sexual misconduct or sexual harassment have access to a range of University support services and assistance which may include:
 - **Safer Communities Office** 8627 6808, 1800 SYD HLP (1800 793 457) (option 2, then option 1), safer-communities.officer@sydney.edu.au;
 - Confidential counselling and support which will be arranged by the staff health support unit. Contact **9351 4052**, 8:30am to 5pm, Monday to Friday.

SCHEDULE 3 – University support for staff and affiliates who have been accused of sexual misconduct or sexual harassment

Staff and affiliates who are accused of sexual misconduct or sexual harassment have access to a range of University support services and assistance, including:

- the **Employee Assistance Program** - Benestar on **1300 360 364**;
- **Staff Health Support Services** on **9351 4052**, 8:30am to 5pm, Monday to Friday;
- **security services** - contact Campus Security on **9351 3333**, 24 hours a day;
- **health services** (for current staff and affiliates only) - contact the University Health Service on **9351 3484**, 8:30am to 5pm, Monday to Friday;
- **staff unions** – NTEU Sydney Branch **9351 2827** or sydney@nteu.org.au (for NTEU members only); CPSU **1300 137 636** or members@cpsu.org.au.