

SEXUAL ASSAULT AND SEXUAL HARASSMENT POLICY

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Approved by Council:	14 Sep 2022
Revised by Council:	N/A
Policy steward:	Chief of Staff

Related documents

Regulation 9 Code of Conduct

Conduct and Misconduct Policy

Complaints Policy

Critical Incident Policy

Safeguarding Policy

National Code of Practice for Providers of Education and Training of Overseas Students 2018 (National Code)

Higher Education Standards Framework (Threshold Standards) 2021: Domain 2.3 and 2.4

Australian Human Rights Commission, Change the Course: National Report on Sexual Assault and Sexual Harassment at Australian Universities (2017)

1. Rationale and Aims

- 1.1 The University of Divinity is committed to the highest standards of conduct, as expressed in Regulation 9 Code of Conduct. This Policy establishes the University's strong commitment to providing a safe and respectful environment that is free from sexual harassment and sexual assault, for all members of the University.
- 1.2 The University aims to ensure that all staff and students understand their obligations and responsibilities towards maintaining a safe and respectful study and workplace environment.
- 1.3 The University supports a proactive approach to preventing incidents of sexual assault or sexual harassment.
- 1.4 The University encourages members of the University to report behaviour that they consider in breach of this Policy.
- 1.5 The University must ensure that the sensitivity of individuals is safeguarded and confidentiality maintained, when reports in relation to the Policy are received.

2. Scope

- 2.1 This Policy applies to all members of the University as set out in section 9.1.3 of Regulation 9 Code of Conduct.

2.2 Activities of the University, and University-related interactions between members of the University extend beyond the University premises.

2.3 This policy only addresses matters and issues relating to sexual harassment and sexual assault. All other general misconduct is covered in the Conduct and Misconduct Policy.

3. Policy statement

Sexual assault and sexual harassment are affronts to human dignity and in many cases are criminal acts. The University of Divinity does not tolerate such behaviour.

4. Principles

4.1 Sexual assault and sexual harassment are unacceptable behaviours and must not be tolerated at the University or within its community.

4.2 Sexual assault or sexual harassment can impact anyone, regardless of their gender identity, sexual orientation, age and background.

4.3 Conduct which breaches this policy may result in disciplinary action in accordance with appropriate University policies and procedures. Behaviour that breaches the law must be reported to the Police.

4.4 The Council and senior leadership of the University takes its responsibility to provide a safe environment for all University members very seriously. Any report or complaint relating to sexual assault or sexual harassment must be responded to in an appropriate manner, in the strictest confidence and with respect to the privacy of the individual.

4.5 The University has various policies and procedures that provide students and staff with options to make a report or complaint.

4.6 The University is committed to providing awareness and training regarding sexual assault and sexual harassment to its staff and students, with the aim of ensuring that they are well informed as to their personal responsibility for their personal safety and that of those around them, and the responsibility of an Active Bystander.

The University must adopt a respectful, compassionate and supportive approach in all cases, including ensuring procedural fairness.

All members of the University are responsible for their behaviour and actions, and are required to:

- a) Comply with this policy
- b) Behave appropriately in accordance with the University's Code of Conduct
- c) Promote an environment of mutual respect
- d) Maintain appropriate confidentiality concerning any disclosure, report, complaint or investigation
- e) Manage disclosures and complaints about sexual assault and sexual harassment in a timely and confidential manner, following due process.

5. Definitions

5.1 **Active Bystander:** A person who witnesses and intervenes in a situation involving harassment, bullying, abuse, or harmful or inappropriate behaviour, with the intention to disrupt or ‘call out’ such behaviour and prevent the behaviour from continuing.

5.2 **Complaint or Report:** A formal account or statement made with the intent that the University investigate the complaint.

5.3 **Consent:** It is the free and voluntary agreement to an act or action in question, and to continue to engage in such act or action. A person does not consent to any act or action just because they do not resist the act or action verbally or physically; submission because of fear is not consent. Consent can be withdrawn at any time during the act or action in question, or to the same act at another time. A person who is unconscious or asleep, incapacitated, or affected by alcohol or other drugs is not able to give consent.

5.4 **Disclosure:** The sharing of information regarding an incident either verbally or in writing, anonymously or through a third-party. A disclosure does not necessarily involve formally reporting an incident, but usually seeks information and support. A person making a disclosure may at a later time choose to change this to a formal complaint or report. The University will not investigate disclosures unless there is an imminent threat to the health and safety of a person, or a pattern of disclosures is revealed indicating the same perpetrator responsible for the incidents.

5.5 **First Responder:** A designated staff member who may provide support and information to anyone who has been subjected to sexual assault or sexual harassment. Where another member of staff has received a report of sexual assault or sexual harassment and is not the First Responder, they must provide support and assistance for the reporter to liaise with the First Responder.

5.6 **Precautionary actions:** Actions taken to promote safety and well-being of the members of the University.

5.7 **Sexual assault:** This can take various forms and types (as defined in the Crimes Act 1958 (Vic) Section 40), all of which are considered as criminal offences. Sexual assault is behaviour that has not been invited or chosen, can be an isolated incident or part of a pattern of events or violence, and may have a range of effects. Sexual assault can involve:

- rape
- when a person is forced or coerced or tricked into sexual acts against their will or without their consent, including when they have withdrawn their consent
- attempted rape, touching, groping, kissing, sexual abuse, or torture in a sexual manner.

5.8 **Sexual harassment:** Under relevant State and Commonwealth legislation, sexual harassment is when a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person, or engages in any other unwelcome conduct of a sexual nature in relation to another person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated. Sexual harassment can involve:

- a) unwanted ongoing declarations of affection or approaches for affection, including gifts
- b) unwelcome touching, hugging or kissing
- c) staring or leering
- d) exhibiting sexually explicit pictures, screen savers or posters
- e) sharing sexually explicit photographs that have been taken with consent but shared without permission
- f) offensive hand or body gestures
- g) the display of sexually suggestive material
- h) sending sexually explicit emails, SMS messages or social media
- i) unwelcome invitations to go out on dates or requests for sex
- j) use of the University's computer systems for the retention and distribution of sexually explicit material.

Sexual harassment is unlawful under the Sex Discrimination Act in different areas of public life, including employment, service delivery, accommodation and education. Some types of sexual harassment may also be criminal offences.

It is also unlawful for a person to be victimised for making, or proposing to make, a complaint of sexual harassment.

6. Implementation

- 6.1 The Chief of Staff is the University's Authorised Officer responsible for the development and publishing of procedures or information on the University website.
- 6.2 The procedures or information must cover incident reporting, response and prevention.
- 6.3 The Authorised Officer must ensure that training is provided to relevant staff.
- 6.4 The Authorised Officer must annually review the information provided and report on its effectiveness to the People and Culture Committee.

7. Monitoring and evaluation

- 7.1 The University's People and Culture Committee must monitor and report to Council annually on:
 - a) The number and type of disclosures made
 - b) The number and type of sexual assault or sexual harassment reports or complaints
 - c) The number of issues reported to the police or other external agencies
 - d) Any further action that was taken in response to the disclosure or complaint
 - e) Referrals made as a response to disclosure.

8. Date of next review

7.1 The initial review of this policy must be done no later than 31 December 2024.