

# Guidelines for Understanding the Gender-Based Violence Prevention and Response Policy

## Section 1 - Guidelines

- (1) Gender-based Violence means any form of physical or non-physical violence, harassment, abuse or threats, based on gender that results in, or is likely to result in, harm, coercion, control, fear or deprivation of liberty or autonomy. Gender-based Violence is unacceptable, unlawful, and strictly prohibited by the University.
- (2) Gender-based Violence may occur as a single incident or take the form of coercive control where a person who uses violence uses a sustained pattern of abusive behaviours to exert power and dominance over time.
- (3) Gender-based Violence can occur within current or former intimate partner relationships and in domestic, family and family-like settings. It can also occur between people who are dating, friends, acquaintances, other people known to the discloser, and strangers.
- (4) Examples of Gender-based Violence include, but are not limited to:
- a. [Coercive Control](#): using a pattern of controlling behaviour to establish and maintain control over another person to deprive them of liberty, autonomy and agency, including tracking someone's whereabouts.
  - b. [Emotional and Psychological Abuse](#): degradation, intimidation, or humiliation, including threatening to 'out' someone's sexuality, transgender or intersex status.
  - c. [Family and domestic violence](#): violence that occurs within family relationships including among partners (or previous partners), parents, siblings and other kinship relationships.
  - d. [Financial Abuse](#): controlling access to finances, making someone account for their income and spending, or preventing someone from earning money.
  - e. [Gender-based harassment or vilification](#): unwelcome conduct based on a person's actual or perceived gender, sex, or sexuality, including derogatory, offensive, demeaning, or intrusive comments and questions.
  - f. [Physical violence](#): hitting, choking, kicking, or burning, including in the context of intimate partner violence.
  - g. [Sexual Violence](#): sexual assault (rape), sexual harassment, unwanted sexual touching, sexual exploitation, image-based abuse, and Child Sexual Abuse.
  - h. [Stalking](#): repeated unwanted behaviours, such as following or watching another person with the intention to maintain contact or exercise power and control over them.
  - i. [Technology-Facilitated Abuse](#): any of the harmful acts above performed or threatened online or through digital technology, including the use of Artificial Intelligence and Deepfake technologies.
- (5) The University's Gender-based Violence Prevention and Response Policy explains how the University works to prevent and respond to Gender-based Violence. It promotes an environment free from Gender-based Violence, and fostering a culture that promotes safety, respect and inclusion for all members of its community. It also sets out:
- a. behaviours that are not accepted by the University;
  - b. the University's commitment to prevent Gender-based Violence within the Macquarie University Community, through education of Students and Staff;

- c. how Disclosures and Formal Reports of Gender-based Violence concerning the Macquarie University Community can be made to the University; and
- d. how the University will respond to Disclosures and Formal Reports about Gender-based Violence.

(6) These Guidelines apply to:

- a. all members of the Macquarie University Community including Students, Leadership, Staff, Affiliates, Affiliated Student Accommodation Providers, and other Affiliated Organisations of Macquarie University;
- b. entities that conduct activities on behalf of the University, including Controlled Entities; and
- c. other businesses and organisations that operate on, use or lease University land or facilities.

(7) The purpose of these Guidelines is to provide information about the University's Gender-Based Violence Prevention and Response Policy and to help you understand what happens if you make a Disclosure or Formal Report.

(8) Where processes differ between Students and Staff, these are detailed in linked documents. These Guidelines should be read in conjunction with the relevant Student and Staff codes of conduct, policies, and procedures.

## **Trauma-informed and Person-Centered Approach**

(9) The University will prioritise the safety, wellbeing, and autonomy of victim-survivors of Gender-based Violence, and act in a Trauma-informed, procedurally fair, and culturally safe manner.

(10) A Trauma-informed approach applies the core principles of safety (physical, psychological and emotional), trust, choice, collaboration and empowerment. It should minimise the risk of re-traumatisation and promote recovery and healing to the greatest extent possible.

(11) Person-centred means ensuring that the Discloser's needs and preferences are at the centre of decisions made in response to the Disclosure. The response systems, policies and procedures affirm the Discloser's dignity and support their healing by genuinely considering their wishes and the impact that decisions may have on them, while at all times ensuring the safety and wellbeing of the Discloser and other Students and Staff.

(12) This includes all Disclosures and Formal Reports being handled in accordance with confidentiality and privacy requirements.

## **Gender-based Violence Prevention**

### **Prevention Education**

(13) The University is committed to a safe, respectful, and inclusive environment, with zero tolerance for Gender-based Violence. We take a proactive approach to preventing Gender-based Violence through education, awareness, and culture change. The University supports prevention and education training that is evidence informed, Trauma-informed, culturally appropriate, inclusive and accessible and designed to manage disclosures including information about support services and reporting channels.

(14) Ongoing education and training is provided to Students and Staff, particularly those in executive and leadership roles. All Students are required to complete the Safer Communities@Macquarie module upon commencement at the University while all Staff are required to complete the Respect@Macquarie training module. Additionally annual specialised training on Responding to Disclosures (currently Responding to Sexual Misconduct Disclosures) is to be undertaken by Students in leadership, Staff and other necessary persons. The University currently monitors completion and refresher requirements and actions follow up for Staff and Students where required.

(15) Additionally, the University will work to incorporate Gender-based Violence prevention initiatives within its existing communications strategy. Existing awareness programs include Sextember and Kickstart.

## **Gender-based Violence Response**

### **Support, Disclosing, and Formal Reporting**

(16) Support is available through internal services and external specialist providers. See the Gender-based Violence Prevention and Response Policy.

(17) Individuals can choose to disclose and/or formally report incidents of Gender-based Violence. A Disclosure is the provision of information about a person's experience of Gender-based Violence to the University by the Discloser or another person (a Reporter). Disclosures are managed with care and confidentiality and may not lead to a Formal Report.

(18) A Formal Report is the provision through formal reporting channels of information about a Discloser's experience of Gender-based Violence by a Discloser to the University, which requires the University to consider taking steps beyond the offer and provision of support services, including (without limitation) the commencement of a Preliminary Assessment, a Formal Investigation and/or a disciplinary process in appropriate circumstances.

### **Disclosures and Formal Reporting Processes**

(19) The [process maps](#) provide how Gender-based Violence Disclosures and Formal Reports for Students and Staff are managed.

(20) For more information about how the University investigates a Student's Formal Report of Gender-based Violence, refer to the Student Guide to Gender-based Violence Investigations.

(21) For more information about how the University investigates a Staff member's Formal Report of Gender-based Violence, refer to the Staff Guide to Gender-based Violence Investigations.

(22) These Guidelines will be reviewed regularly to ensure compliance with evolving legal and policy requirements.

## **Definitions**

(23) Unless the context requires otherwise, capitalised terms that are not defined below, have the meaning given to them in the Gender-based Violence Prevention and Response Policy.

### **Bystander**

(24) A person who witnesses or becomes aware of Gender-based Violence or related conduct and chooses to take safe and appropriate action to support those affected or prevent further harm.

### **Child Sexual Abuse**

(25) As defined in the [National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030](#):

- a. Any act that exposes a person aged under 18 to, or involves them in, sexual activities that:
  - i. they do not understand;
  - ii. they do not or cannot consent to;
  - iii. are not accepted by the community;
  - iv. are unlawful.

### **Consent to Sex**

(26) As defined in the [Crimes Act 1900](#) (NSW):

- a. A person consents to a sexual activity if, at the time of the sexual activity, the person freely and voluntarily

agrees to the sexual activity.

- i. A person who consents to a sexual activity with a person on one occasion is not to be taken to consent to sexual activity with that person on another occasion, or taken to consent to sexual activity with another person on that, or another occasion.
  - ii. A person who consents to a particular sexual activity is not taken to consent to any other sexual activity. For example, if a person consents to sexual activity using a condom, they cannot be taken to have consented to sexual activity without using a condom.
  - iii. A person who does not offer physical or verbal resistance to a sexual activity is not to be taken to consent to the sexual activity.
  - iv. Sexual activity which occurs after consent has been withdrawn occurs without consent.
  - v. A person may, by words or actions, withdraw consent to a sexual activity at any time.
- b. A person does not consent to a sexual activity if:
- i. they do not say or do anything to communicate consent;
  - ii. they are asleep or unconscious;
  - iii. they are substantially intoxicated by alcohol or any drug;
  - iv. they do not have capacity to consent;
  - v. the person participates in the sexual activity because of coercion, blackmail or intimidation;
  - vi. they participate in the sexual activity because of force, fear of force or fear of serious misconduct of any kind to the person, another person, an animal or property;
  - vii. they are unlawfully detained;
  - viii. they are pressured to engage in sexual activities by another person who is in a position of power, authority, trust or dependence;
  - ix. they are tricked or mistaken about the identity of any person involved;
  - x. they are tricked or mistaken about the situation;
  - xi. they participate in the sexual activity because of a fraudulent incentive;
  - xii. they are under 16 years of age.

## **Deepfake**

(27) As defined in the [Criminal Code Act 1995](#) (Cth):

- a. Images, videos or sound files, generated using AI, of a real person that has been edited to create an extremely realistic but false depiction of them doing or saying something that they did not actually do or say.

## **Image Based Abuse**

(28) As defined in the [Crimes Act 1900](#) (NSW):

- a. Recording, distributing or threatening to record and/or distribute an intimate image without consent.

## **Positive Duty**

(29) The legal obligation under the [Sex Discrimination Act 1984](#) (Cth) for organisations to take reasonable and proportionate measures to eliminate, as far as possible, unlawful sex discrimination, sexual harassment, and related conduct.

## **Sexual Assault**

(30) As defined in the [Crimes Act 1900](#) (NSW):

- a. Sexual intercourse without the other person's consent (see above definition of consent).
- b. Sexual Intercourse includes:
  - i. the penetration to any extent of the genitalia or anus of a person by:
    - any part of the body of another person; or
    - any object manipulated by another person;
    - the introduction of any part of the genitalia of a person into the mouth of another person;
    - the application of the mouth or tongue to the female genitalia;
    - the continuation of sexual intercourse as defined above.
- c. Penetration carried out solely for proper medical or hygienic purposes is not considered "sexual intercourse".

## **Sexual Exploitation**

(31) As defined by the [Australian Institute of Criminology](#):

- a. Situations in which a person uses coercion, threat or deception to force a victim-survivor to provide sexual services, or prevents them from leaving the place where sexual services are being provided, whether in a commercial or private setting.

## **Sexual Harassment**

(32) As defined in the [Sex Discrimination Act 1984](#) (Cth):

- a. An unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; 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.
- b. Examples of sexual harassment include, but are not limited to:
  - i. unwelcome touching, hugging or kissing;
  - ii. staring or leering;
  - iii. unwanted invitations to go out on dates;
  - iv. unwanted request for sexual contact;
  - v. intrusive questions about a person's private life or body;
  - vi. sexually explicit emails or SMS messages;
  - vii. touching or fiddling with a person's clothing, such as lifting up a skirt or pulling down trousers.

## **Sexual Touching**

(33) As defined in the [Crimes Act 1900](#) (NSW):

- a. A person touching another person:
  - i. with any part of the body or with anything else; or
  - ii. through anything, including anything worn by the person doing the touching or by the person being touched in circumstances where a reasonable person would consider the touching to be sexual.
- b. The matters to be taken into account in deciding whether a reasonable person would consider touching to be sexual include:

- i. whether the area of the body touched or doing the touching is the person's genital area, anal area or breasts:
- ii. whether or not the breasts are sexually developed; and
- iii. regardless of the person's gender or sex:
  - whether the person doing the touching does so for the purpose of obtaining sexual arousal or sexual gratification;
  - whether any other aspect of the touching (including the circumstances in which it is done) makes it sexual.