

# Staff Sexual Harassment Prevention and Response Policy

## Section 1 - Purpose

(1) This Policy aims to help us build a University community free from sexual harassment. It details the obligations of Macquarie University Staff and Affiliates in relation to sexual harassment. The accompanying Procedure explains how people can seek support and make a report of sexual harassment, and describes how the University will respond to complaints or allegations of sexual harassment in the workplace. Contact details for additional external support services are documented in the [Schedule of Support Services](#).

### Background

(2) Sexual harassment can have serious and detrimental impacts on individuals, teams, and communities. It can affect an individual's health and wellbeing, as well as impact work performance. It creates a hostile work environment for those who experience and witness it.

(3) Sexual harassment is unlawful under the [Anti-Discrimination Act 1977](#) (NSW) and the [Sex Discrimination Act 1984](#) (Cth) and constitutes misconduct in employment. The University does not tolerate sexual harassment under any circumstances. We are committed to building a culture of mutual respect and collaboration and sexual harassment is a serious violation of those values.

(4) As a University, we must also provide a supportive and inclusive environment for students to study and research. Staff and Affiliates of Macquarie University play an important role in building and maintaining a community and environment that supports our students to realise their individual potential and ensures that their experience at Macquarie University is positive and rewarding.

### Scope

(5) This Policy applies to all Staff and Affiliates of the University.

(6) This Policy applies to any activity that is connected with the University, including:

- a. all aspects of employment, recruitment and selection, conditions and benefits, training and promotion, task allocation, shifts, hours, leave arrangements, workload, equipment and transport;
- b. on-site, off-site or after-hours work;
- c. any form of contact or communication that is relevant to University business or University activities whether initiated in person, by email, phone, via social media or other electronic means;
- d. attendance at a University campus, residence or facility;
- e. use of University equipment (e.g. IT equipment, vehicles or facilities);
- f. attendance at a University event, function or activity or events, functions or activities connected with the University, including after-hours or off-site social functions; and
- g. participating in any activity as a representative of the University (e.g. meetings, field trips, practicums, conferences, etc).

(7) For Macquarie University students affected by sexual harassment or sexual assault, refer to the [Student Sexual Misconduct Prevention and Response Policy](#).

## Section 2 - Policy

(8) Macquarie University is committed to providing a safe and inclusive work environment that is free from any forms of intimidation or harassment.

(9) University Staff and Affiliates must not engage in conduct that constitutes sexual harassment.

(10) All members of our community need to play an active role in following this Policy and helping to ensure that the University is known as a safe, respectful, and collaborative community where sexual harassment is not tolerated.

(11) The University will take steps to:

- a. create a work environment free from sexual harassment;
- b. actively promote respectful and collaborative behaviours within our community at all times;
- c. provide support to Staff and Affiliates who raise concerns about sexual harassment;
- d. encourage Staff and Affiliates to speak up about sexual harassment and report sexual harassment;
- e. respond to reports of sexual harassment in a manner that is, to the extent possible, confidential, timely and fair;
- f. protect Staff and Affiliates who raise concerns or make complaints from reprisal action;
- g. hold Staff and Affiliates who engage in sexual harassment accountable for their behaviour; and
- h. implement Staff and manager training and build community awareness of behaviours that constitute sexual harassment.

### What is sexual harassment?

(12) Sexual harassment is unlawful in workplaces and educational institutions.

(13) For the purposes of this Policy, sexual harassment is defined as:

- a. unwanted sexual advances or unwelcome requests for sexual favours; or
- b. other unwelcome behaviour of a sexual nature; and

where a reasonable person, considering the situation, would expect the person experiencing the behaviour to be offended, humiliated, or intimidated by the behaviour.

(14) Sexual harassment can take many different forms. It can be obvious or indirect; it can be physical or verbal; it can be repeated or one-off; and it can be perpetrated by any person against any other person, irrespective of gender identity.

(15) Sexual harassment can happen to anyone. Evidence shows, however, that people who identify as members of distinct social groups are more likely to experience sexual assault or sexual harassment. These groups include, but are not limited to, people who identify as: Aboriginal and Torres Strait Islander, culturally and linguistically diverse, LGBTQIA+, living with a disability, and women.

(16) Examples of sexual harassment include but are not limited to:

- a. unwelcome touching, hugging or kissing;

- b. staring or leering;
- c. unwanted invitations to go out on dates;
- d. unwanted requests for sexual contact;
- e. intrusive questions about a person's private life or body;
- f. sending sexually explicit emails, SMS text messages or messages / posts via social media;
- g. touching or fiddling with a person's clothing, e.g. lifting up skirts or flicking bra straps; and
- h. behaviour which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

(17) Consensual sexual behaviour at work (such as discussing sex or making references to sex) might be sexual harassment if it offends another person or people who see or overhear it.

(18) Conduct may be sexual harassment even if the person did not intend to offend, humiliate or intimidate another person.

### **Social Media, Online Activity and Electronic Messaging**

(19) Staff and Affiliates need to be mindful about interactions which might be 'outside of work' but which still impact on or are connected with work or University activity. This includes social media use, online activity, and electronic messaging. It is possible that conduct or interactions which occur using technology and which include or involve other Staff or Affiliates (such as being 'friends' with work colleagues on Facebook or sending text messages to a work colleague you are friends with) or which might otherwise be connected with the University, may amount to workplace sexual harassment, even if the activity is not itself clearly 'work related'.

### **Relationships at Work**

(20) The University is a large and diverse community in which mutually beneficial and respectful relationships are fostered. It is common for people to develop personal relationships with people they work with or engage with through work.

(21) However, there are circumstances where romantic and / or sexual relationships with people at work are not acceptable, due to the actual or perceived misuse of power or authority, a conflict of interest or the impact (or potential impact) on students, Staff and / or the University. Staff must refer to the [Staff Code of Conduct](#) in relation to their responsibilities for disclosing a conflict of interest in relation to certain relationships at work.

(22) Staff need to be aware that actions in initiating or engaging in personal or sexual relationships may amount to sexual harassment if their actions constitute unwelcome conduct that could reasonably be anticipated to cause offence, humiliation, or intimidation.

(23) It is completely unacceptable and constitutes unlawful sexual harassment for a Staff member to exploit or misuse the power of their position in a sexual way, for example seeking or accepting sexual favours or a sexual relationship in return for academic or professional progress, preference or favourable treatment.

### **Jokes, Nicknames and Innuendo**

(24) In a community as large and diverse as ours at Macquarie University, we need to be mindful that jokes and nicknames that might be funny to some people, may be offensive and disrespectful to others. Jokes, nicknames, and / or personal remarks that have a sexual focus or connotation may be disrespectful to members of our community and may constitute sexual harassment.

### **What Sexual Harassment is Not**

(25) Attraction, flirtation or friendship which is mutual and consensual is not sexual harassment. However, it is not

always easy to know how our behaviour is being received and perceived by others. It is common for people to feel uncomfortable about saying that the behaviour is unwelcome. Behaviour can become sexual harassment if interactions change from being mutual and consensual to being unwelcome and unreciprocated. Every person is ultimately responsible and accountable for their own behaviour and for ensuring that it is not unwelcome or unreciprocated.

## **When Sexual Harassment is a Criminal Offence**

(26) In addition to being unlawful under discrimination law, some forms of sexual harassment may also be an offence under criminal law, for example:

- a. sexual assault;
- b. indecent exposure;
- c. stalking; or
- d. filming a person's private parts.

(27) The University may be required to refer matters involving potential criminal conduct to the police. Referral to the police does not preclude the University from dealing with the matter through its internal procedures.

### **What is sexual assault?**

(28) Sexual assault occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent, or if a child or young person under 18 is exposed to sexual activities. Some forms of sexual harassment can constitute sexual assault.

(29) Sexual assault is a crime and is prohibited by the [Crimes Act 1900](#) (NSW).

(30) Examples of sexual assault include:

- a. sexual intercourse without a person's consent;
- b. aggravated sexual assault;
- c. sexual touching: unwanted touching or threatening to touch a person in a sexual way without their consent, for example unwanted kissing or touching of a person's breast, bottom or genitals;
- d. a sexual act: behaviour of a sexual nature with or towards another person, without consent, or when a person is made to do something of a sexual nature. For example, it can include masturbating in front of another person or a person sending another person an unwanted image of genitals, breasts or bottom; and
- e. recording or distributing an intimate image of another person without their consent.

(31) Threatening to engage in these behaviours may also be considered sexual assault.

## **Responsibilities of Staff and Affiliates**

(32) All Staff and Affiliates have a responsibility to:

- a. treat others with dignity and respect;
- b. follow the standards of behaviour set out in this Policy at all times;
- c. not engage in sexual harassment;
- d. offer support to anyone who is being sexually harassed and let them know where they can get help and advice;
- e. not victimise or retaliate in any way against any person who seeks support or reports sexual harassment or who is involved in any procedure in response to a sexual harassment complaint;
- f. maintain confidentiality, which means that information about a concern or complaint is only provided to those

- people who need to know in order for the complaint to be properly actioned;
- g. cooperate during any process; and
- h. undertake training in relation to workplace sexual harassment prevention and response and contributing to a respectful workplace culture.

## **Responsibilities of Managers and Supervisors**

(33) Managers and supervisors have a responsibility to:

- a. monitor the working environment to ensure that acceptable standards of conduct are observed at all times;
- b. model respectful behaviour;
- c. if they observe or suspect sexual harassment in the workplace or behaviour that otherwise breaches this Policy, promptly take appropriate steps to address the behaviour or, if unsure, seek advice and assistance in relation to addressing the behaviour;
- d. promote this Policy and respectful and collaborative behaviours within their teams, offices, departments, and faculties;
- e. make Staff aware of the Support and Report options available in relation to sexual harassment (refer to 'How to Seek Support if You Have Concerns or Have Experienced Sexual Harassment?' and 'How to make a Report of Sexual Harassment' within the accompanying Procedure);
- f. treat all reports of sexual harassment seriously and take appropriate action to respond to the report in accordance with the University's procedures;
- g. treat all reports of sexual harassment confidentially, which means that information about a concern or complaint is only provided to those people who need to know in order for the complaint to be properly actioned;
- h. take appropriate steps to protect any person making a report of sexual harassment from victimisation; and
- i. undertake training regarding their responsibilities as a Manager in relation to workplace sexual harassment prevention and response, and contributing to a respectful workplace culture.

## **Breaches of this Policy**

(34) The University will take appropriate action against any Staff member or Affiliate proven to have engaged in sexual harassment or otherwise proven to have breached this Policy. Depending on the circumstances and severity of the case, for Staff this may result in disciplinary action, including a written warning or termination of employment. For Affiliates, this may be cessation of their contract or relationship with the University.

(35) Staff and Affiliates are legally responsible for their own behaviour. Legal action can be taken against individuals and / or against an employer (i.e. Macquarie University) for workplace sexual harassment.

## **Sexual Assault and Sexual Harassment within the Student Community - Respect. Now. Always.**

(36) In 2017, the [Australian Human Rights Commission](#) published a report into sexual violence in Australian universities: [Change The Course: National Report on Sexual Assault and Sexual Harassment at Australian Universities \(2017\)](#). The report identified that 51% of students taking part had experienced sexual harassment in 2016, and 7% reported being sexually assaulted in 2015 / 2016.

(37) The [Respect. Now. Always. Support](#) (RNA) project at Macquarie University aims to change our community culture, to prevent sexual assault and sexual harassment, and to improve responses to sexual violence.

(38) For further information about how Staff can support our students in relation to sexual assault and sexual harassment, including information on support services, refer to the [Student Sexual Misconduct Prevention and Response Policy](#), [Student Sexual Misconduct Prevention and Response Procedure](#) and [Guide to Student Sexual](#)

## **Section 3 - Procedures**

(39) Refer to the [Staff Sexual Harassment Prevention and Response Procedure.](#)

## **Section 4 - Guidelines**

(40) Nil.

## **Section 5 - Definitions**

(41) The following definitions apply for the purpose of this Policy:

- a. Affiliates means persons holding Honorary titles with the University and contractors and volunteers working for the University.
- b. Staff means all persons employed by Macquarie University, including continuing, fixed term, and casual Staff members.
- c. University means Macquarie University.

## Status and Details

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