

SEXUAL HARASSMENT POLICY AND PROCEDURE



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1 PURPOSE

- 1.1 The purpose of this policy and procedure is to provide a framework and information for University employees on how to appropriately resolve alleged cases of sexual harassment.
- 1.2 This policy and procedure is intended to support the [Code of Conduct](#) in building and maintaining a positive working environment built on mutual respect and consistent with the University's [values](#).

2 SCOPE

- 2.1 This policy and procedure applies to all CQUniversity employees, visitors and contractors who are engaged in CQUniversity related activities either on University property or off campus
- 2.2 Students have the right to make complaints regarding alleged sexual harassment by using the [student complaint process](#).
- 2.3 Staff have the right to make complaints regarding alleged sexual harassment by students by using the [Student Behavioural Misconduct Procedure](#).
- 2.4 This policy and procedure does not cover sexual assault. Sexual Assault is a reportable criminal offence that is treated separately to sexual harassment. If you have experienced sexual assault, please contact 000, Security or attend your nearest Emergency Department.

3 POLICY STATEMENT

- 3.1 CQUniversity Australia is committed to providing a workplace free from sexual harassment. Employees have a responsibility to ensure that their actions do not negatively affect another employee's career, health or wellbeing and are consistent with the University's [Code of Conduct](#). Sexual harassment will not be tolerated under any circumstances.

- 3.2 An employee found to have sexual harassed another employee, or member of the University's Community, or, to have condoned such behaviour will be subject to disciplinary action in accordance with the provisions of the current [Central Queensland University Enterprise Agreement 2017](#) (clause 27).
- 3.3 The University requires that all parties involved will treat complaints confidentially. Steps taken to address any complaint can include an investigation and/or misconduct or serious misconduct procedures as specified in the current Enterprise Agreement (clause 27).
- 3.4 The University requires all employees to behave responsibly by complying with this policy and procedure to not tolerate unacceptable behaviour, and to immediately report incidents to the appropriate person.
- 3.5 The University also recognises the right of individuals to seek external advice and/or resolution to their complaint by agencies such as the Anti-Discrimination bodies, Unions or Individual State/Territory governing bodies.
- 3.6 Where the University deems it necessary, it may act and investigate the issue or concerns further to protect the health and safety of all employees.

4 PROCEDURE

- 4.1 When an individual has concerns about a particular behaviour and is unsure if it constitutes [sexual harassment](#), they should contact [the Workplace Relations](#) Team in People and Culture. Employees may also seek support from the University's [Employee Assistance Program](#) (EAP). Sexual harassment can be a single incident.
- 4.2 A supervisor/manager who has concerns about, or becomes aware of, behaviour that may constitute sexual harassment has an obligation and a duty of care to actively and promptly intervene to prevent such conduct continuing.
- 4.3 The University will accept complaints where it is appropriate to do so, and if a complaint is not accepted, the reasons will be given for the decision.

Reporting an incident

- 4.4 To report an incident as it is occurring on campus please contact security by telephone or by activating the *Help or Emergency* Functions on the [SafeZone App](#). [Security](#) can be contacted 24 hours a day, seven days a week, from any campus on 0418 792 982. To download SafeZone search for 'SafeZone' in the App Store or Google Play.
- 4.5 Always dial Triple Zero (000) if a member of the University's community is in immediate danger.

Making a complaint

- 4.6 The University will respect an individual's decision on whether they will make a complaint. When an individual decides not to make a formal complaint, discussions will be kept confidential other than in exceptional circumstances, where required by law or where there is a significant risk of harm to the health and safety of the individual or another. In such circumstances, the University may notify third parties, such as police or other relevant bodies.
- 4.7 To make a complaint of sexual harassment, please contact [Workplace Relations](#). A Workplace Relations Officer, in consultation with the manager, will determine whether a formal investigation is necessary. If a formal investigation is required, an external investigator will be appointed within five working days.
- 4.8 An investigator must be independent of the parties and can be internal or external to CQUniversity, depending on the seriousness of the alleged behaviour. The investigator will normally interview the parties and witnesses as identified in the complaint.
- 4.9 The investigation results will be provided to [Workplace Relations](#) for determination of the appropriate action. Where the allegation is substantiated, misconduct or serious misconduct proceedings as defined in the

Enterprise Agreement (clause 27) may be instigated. The investigation report is confidential and releasing the report to any affected party will be determined by the Director, People and Culture or nominee.

- 4.10 If criminal proceedings commence at any time, the investigation will be suspended. If the criminal process ends, the disciplinary process may recommence.

Witnesses / Bystanders

- 4.11 If a staff member is a witness or bystander to behaviour that they consider may constitute sexual harassment, it is appropriate that they raise their concerns about such behaviour to either the relevant supervisor or with the [Workplace Relations](#) team, People and Culture Directorate.

False, Malicious or Vexatious Allegations

- 4.12 Employees who are proven to have made false, malicious or vexatious allegations which are substantiated are in breach of the Code of Conduct and that behaviour will be viewed as misconduct or serious misconduct.

Victimisation

- 4.13 A person 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 resolution of a complaint of sexual harassment.

5 RESPONSIBILITIES

Compliance, monitoring and review

- 5.1 The Director, People and Culture is responsible for monitoring compliance and reviewing this policy and procedure to ensure it continues to achieve its intended purpose.

Reporting

- 5.2 No additional reporting is required.

Records management

- 5.3 All records in relation to Formal Complaints will be retained by the People and Culture Directorate for confidential filing.
- 5.4 Employees must manage records in accordance with the [Records Management Policy and Procedure](#). This includes retaining these records in a recognised University recordkeeping system.
- 5.5 University records must be retained for minimum periods specified in the University Sector Retention and Disposal Schedule on the [Queensland State Archives website](#).

6 DEFINITIONS

- 6.1 Terms not defined in this document may be in the University [glossary](#).

Terms and definitions

Bystander: are individuals who observe the behaviour first hand or are subsequently informed of the incident. Includes a person who observes someone harassing, bullying or discriminating against another person or group.

Complaint: is a complaint lodged by a person(s) about inappropriate conduct or behaviour by another person(s) which may constitute sexual harassment. On occasion more than one employee is aggrieved by the same or related actions that may constitute sexual harassment. If those employees choose to act as a

group on this matter, such a group complaint is an acceptable form of complaint and will be dealt with as a group complaint.

Complainant: is the party who makes the complaint.

Disciplinary action: refers to action by the University to discipline an employee covered by the Enterprise Agreement for unsatisfactory performance, misconduct or serious misconduct and is limited to:

- reprimand or counselling
- demotion by one or more classification levels or increments
- withholding of an increment
- suspension with or without pay, and
- termination of employment.

Termination of employment can only be used in the event of proven unsatisfactory performance or serious misconduct under the conditions outlined in the Enterprise Agreement (clauses 26 & 27).

Discrimination: including racial discrimination and vilification generally means any practice that treats a person less favourably or has the effect of disadvantaging the person because of an attribute (e.g. sex or race) specified by anti-discrimination legislation. Clause 7 refers to legislation and relevant documents for each state/territory in Australia.

Sexual Harassment: is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances.

Sexual harassment can be physical, spoken or written. It can include:

- unwelcome touching
- staring or leering
- suggestive comments or jokes
- sexually explicit pictures or posters
- unwanted invitations to go out on dates
- requests for sex
- intrusive questions about a person's private life or body
- unnecessary familiarity, such as deliberately brushing up against a person
- insults or taunts based on sex
- sexually explicit physical contact and
- sexually explicit emails or SMS text messages
- behaviour which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

The [Sex Discrimination Act 1984](#) (Cwlth) defines the nature and circumstances in which sexual harassment is unlawful. It is also unlawful for a person to be victimised for making, or proposing to make, a complaint of sexual harassment to the [Human Rights and Equal Opportunity Commission](#).

Victimisation: occurs when a person does or threatens to do something that will be detrimental to another person because they have lodged a complaint, are considering lodging a complaint, or they are or will be involved in the complaint resolution process. Victimisation usually involves retaliation or retribution.

7 RELATED LEGISLATION AND DOCUMENTS

[Australian Human Rights Commission Act 1986](#) (Cwth)

[Central Queensland University Enterprise Agreement 2017](#)

[Code of Conduct](#)

[Equal Opportunity for Women in the Workplace Act 1999](#) (Cwth)

[Fair Work Act 2009](#) (Cwth)

[Occupational Health and Safety Act 2004](#) (VIC)

[Occupational Health and Safety Act 1984](#) (WA)

[Sexual Harassment \(Code of Practice\) Human Rights Commission 2004](#)

[Work Health and Safety Act 2011](#) (NSW)

[Work Health and Safety Act 2011](#) (NSW)

[Work Health and Safety Act 2012](#) (SA)

8 FEEDBACK

8.1 Feedback about this document can be emailed to policy@cqu.edu.au.

9 APPROVAL AND REVIEW DETAILS

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Administrator	Director, People and Culture
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Notes	This document was previously combined with the Workplace Harassment (including Sexual Harassment), Workplace Bullying and Unlawful Discrimination Policy and Procedure (09/09/2015).