

# SEXUAL HARASSMENT POLICY AND PROCEDURE



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## 1 PURPOSE

- 1.1 This policy and procedure provides a framework for CQUniversity employees to appropriately resolve alleged cases of [sexual harassment](#).
- 1.2 This policy and procedure supports 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 alleged [sexual harassment](#) by or to CQUniversity employees, Council and Committee members, visitors and contractors who are engaged in University related activities either on University property or off campus.
- 2.2 This policy and procedure does not apply to:
  - [complaints](#) from students. Refer to the [Complaints Policy and Procedure](#).
  - complaints regarding alleged sexual harassment by students. Refer to the [Student Conduct Policy and Procedure](#), or
  - sexual assault as defined by the [Queensland Government](#). Sexual assault is a reportable criminal offence that is treated separately to sexual harassment. If experienced sexual assault, please contact 000, Security or attend the nearest Emergency Department.

## 3 POLICY STATEMENT

- 3.1 The University 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 health, wellbeing or career and are consistent with the [Code of Conduct](#). Sexual harassment will not be tolerated under any

circumstances. Other methods used to promote respectful behaviour within the University include effective communication, policy documents and training.

- 3.2 Sexual harassment can be considered serious misconduct and can be a valid reason for dismissal. An employee found to have sexually 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 [Central Queensland University Enterprise Agreement](#).
- 3.3 Parties involved will treat [complaints](#) confidentially. Steps to address a complaint may include an investigation and/or misconduct or serious misconduct procedures as specified in the [Enterprise Agreement](#).
- 3.4 Employees must behave responsibly by complying with this policy and procedure, not tolerate unacceptable behaviour, and immediately report incidents to the appropriate person.
- 3.5 Employees have the right 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 employees.

## 4 PROCEDURE

- 4.1 If an [individual](#) has concerns about a particular behaviour, or is unsure if it constitutes [sexual harassment](#), they should contact the Workplace Relations Team in the People and Culture Directorate. Employees may also seek support from the University's [Employee Assistance Program](#) (EAP). Sexual harassment can be a single incident.
- 4.2 Individuals who have 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 by the Executive Director People and Culture.

### Reporting an incident

- 4.4 To report an incident as it is occurring on campus, contact Security by telephone or by activating the *Help* or *Emergency* Functions on the University's SafeZone mobile application. 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 [Sexual harassment](#) complaints can be made by using the [Report a Confidential Incident Form](#), or by making a complaint with the Workplace Relations Team. A Workplace Relations Officer will review the confidential incident and determine whether a formal investigation is necessary. If a formal investigation is required, an appropriate investigator will be appointed by the Executive Director People and Culture (or nominee) within five working days.
- 4.8 An investigator must be independent of the parties and can be internal or external to the University, 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 the Workplace Relations Team for determination of the appropriate action. Where the allegation is substantiated, misconduct or serious misconduct proceedings as defined in the [Enterprise Agreement](#) may be instigated. The investigation report is confidential and releasing the report to any affected party will be determined by the Executive 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 an [individual](#) is a witness or [bystander](#) to behaviour that they consider may constitute [sexual harassment](#), they have a duty of care to submit a [Report a Confidential Incident Form](#) or raise their concerns to either the relevant supervisor or with the Workplace Relations Team.

### **False, malicious or vexatious allegations**

- 4.12 Employees who are proven to have made false, malicious or vexatious allegations which are substantiated will be 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 Executive Director People and Culture is responsible for implementing, monitoring, reviewing and ensuring compliance with this policy and procedure.

### **Reporting**

- 5.2 No additional reporting is required.

### **Records management**

- 5.3 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 the minimum periods specified in the relevant [Retention and Disposal Schedule](#). Before disposing of any records, approval must be sought from the Records and Privacy Team (email [records@cqu.edu.au](mailto:records@cqu.edu.au)).

## **6 DEFINITIONS**

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

### **Terms and definitions**

**Bystander:** individuals who observe the behaviour firsthand or are subsequently informed of the incident. Includes a person who observes someone sexually harassing another person.

**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 individual is aggrieved by the same or related actions that may constitute sexual harassment. If those individuals 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.

**Disciplinary action:** 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 25 and 26).

**Individual:** a collective term used for employees, Council and Committee members, visitors and contractors who are engaged in University related activities either on University property or off campus.

**Sexual harassment:** unwelcome sexual advance, conduct or request 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 one-off or repeated incidences of:

- unwanted or unsolicited intimate physical contact such as patting, pinching or touching in a sexual way
- unnecessary familiarity such as brushing up against a person
- sexual propositions
- unwelcome and unsolicited remarks or insinuations about a person's sex or private life, including jokes, insults or taunts
- suggestive comments about a person's appearance or body
- offensive telephone call, texts, emails or social media posts of a sexual nature
- staring or leering, or
- subjecting a person to sexually offensive screen savers or images in electronic or other forms.

Behaviour which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications is considered a form of sexual harassment. Sexual assault is a reportable criminal offence that is treated separately to sexual harassment. If experienced sexual assault, please contact 000, Security or attend the nearest Emergency Department.

Sexual harassment is not:

- sexual contact that has been engaged in with consent of the recipient, when the consent has not been obtained through fear, intimidation, threats or force or where there is a power imbalance in the relationship
- flirting that is invited and not unwelcome
- attraction or friendship that is invited and not unwelcome
- conduct of non-sexual nature such as requesting a person to do a favour that is not sexual in nature (which may be considered harassment or bullying).
- sexual interaction, flirtation, attraction, or friendship which **is invited, mutual, consensual or reciprocated**.

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 [Australian Human Rights Commission](#).

**University community:** the University Council and Committees, employees, contractors, students, visiting academics, businesses and organisations providing placement or practicum opportunities and their employees and clients, and the University body corporate.

**Unlawful discrimination:** discrimination can be described as either –

- direct discrimination: when a person or group of people are treated less favourably than another person or group of people because of their background or personal attribute specified by anti-discrimination legislation, or
- indirect discrimination: where an unreasonable rule of policy applies to everyone, but disadvantages some people because of a personal attribute specified by anti-discrimination legislation.

**Victimisation:** subjecting a person to negative treatment because they:

- refused to do something that would contravene equal opportunity or anti-discrimination law
- complained, or intend to complain, about something that would contravene equal opportunity or anti-discrimination law
- is or has been involved in a proceeding under equal opportunity or anti-discrimination law, including as a witness, or supplying information, or
- are believed to have done or intend to do any of the above.

## 7 RELATED LEGISLATION AND DOCUMENTS

[Anti-Discrimination Act 1991](#) (Qld)

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

[Central Queensland University Enterprise Agreement](#)

[Code of Conduct](#)

[Effectively preventing and responding to sexual harassment: A Code of Practice for Employees](#) (Australian Human Rights Commission)

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

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

[Occupational Health and Safety Policy](#)

[Report a Confidential Incident Form](#)

[Sex Discrimination Act 1984](#) (Cwlth)

[Sexual Harassment \(Code of Practice\) – what is sexual harassment](#) (Australian Human Rights Commission)

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

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

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

[Work Health and Safety Act 2020](#) (WA)

[Workplace Gender Equality Act 2012](#) (Cwlth)

## 8 FEEDBACK

- 8.1 Feedback about this document can be emailed to [policy@cqu.edu.au](mailto:policy@cqu.edu.au).

## 9 APPROVAL AND REVIEW DETAILS

Approval and Review	Details
Approval Authority	Vice Chancellor and President
Delegated Approval Authority	N/A
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Administrator	Executive 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).