Prevention and Response to Sexual Assault and Sexual Harassment Procedure

In life threatening situations you can contact the Police by calling 000.

Note on Language:	
This procedure contains language and references to sexual assault and sexual harassment. If anything in this procedure has affected or distressed you, you may wish to seek support. Support is available for:	
Students:	Phone Campus Care on (02) 4921 8600 (Monday to Friday during business hours). Email campuscare@newcastle.edu.au.
Staff:	The University's Employee Assistance Program including the 24/7 crisis service on 02 4926 5005 and press #1 to contact an after-hours psychologist.
Community:	Phone (1800RESPECT) 1800 737 732 or text 0458 737 732. 1800RESPECT is the national domestic, family and sexual violence counselling, information and support service.

Section 1 - Purpose

(1) This procedure details the prevention, reporting and support mechanisms related to sexual assault, sexual harassment and sex-based harassment.

(2) For:

a. students, this procedure should be read in conjunction with the Student Code of Conduct, Student Conduct Rule and the Prevention and Response to Sexual Assault and Sexual Harassment Policy.
b. staff members, this procedure should be read in conjunction with the Staff Code of Conduct, the Prevention and Response to Sexual Assault and Sexual Harassment Policy and the Health Safety Management System Framework.

Section 2 - Scope

(3) This procedure applies to all members of the University community and persons who are not members of the University community who want to make a report of sexual assault, sexual harassment or sex-based harassment by a current or former member of the University community.

(4) Reports of sexual harassment, sexual assault and sex-based harassment will be assessed and responded to as set out in this procedure. However, the actions available to the University may be limited in some circumstances, for example, where the conduct was engaged in by a former member of the University community.

Section 3 - Responding to Disclosures and Reports of Sexual Assault, Sexual Harassment and Sex-Based Harassment

(5) A person who has experienced sexual assault, sexual harassment or sex-based harassment may wish to make a disclosure or a report about their experience:

a. A disclosure: refers to the sharing of information about an experience of sexual assault, sexual harassment or sex-based harassment. Disclosures can be made to anyone and are usually made to a person who is known and trusted. A person who discloses may not want to make a report to the University or to police and may instead be looking for information about resources and support.
b. A report: refers to a report about sexual assault, sexual harassment or sex-based harassment made in accordance with the process set out in this procedure.

How to Report Sexual Assault and Sexual Harassment within the University

(6) A report of sexual assault, sexual harassment or sex-based harassment can be made by an individual(s) who has experienced, witnessed, or is aware of a sexual assault, sexual harassment or sex-based harassment, including by:

a. the complainant;
b. a witness;
c. a support person;
d. a bystander; or
e. any other member of the University community who has received a disclosure or is concerned for a student or staff member.

Students

(7) A student can make a report of sexual assault, sexual harassment or sex-based harassment in the following ways:

a. Email campuscare@newcastle.edu.au;
b. Phone Campus Care on (02) 4921 8600 (Monday to Friday during business hours);
c. Complete an online report:
    i. Identified Report of Sexual Assault or Sexual Harassment – this form is used to report sexual assault or sexual harassment and seek support;
    ii. Anonymous Report of Sexual Assault or Sexual Harassment – this form is used to report sexual assault or sexual harassment anonymously. If a report is made anonymously the University will not be able to provide direct support to the complainant as the report will not identify the individual completing the form.

(8) More information about Anonymous Reporting is set out below.

Staff

(9) A member of staff can make an initial report of sexual assault, sexual harassment or sex-based harassment in the following ways:

a. Email staffcare@newcastle.edu.au;

b. Complete an online report:
    i. Identified Report of Sexual Assault or Sexual Harassment – this form is used to report sexual assault or sexual harassment and seek support;
    ii. Anonymous Report of Sexual Assault or Sexual Harassment – this form is used to report sexual assault or sexual harassment anonymously. If a report is made anonymously the University will not be able to provide direct support to the complainant as the report will not identify the individual completing the form.
c. Phone Campus Care on (02) 4921 8600 (Monday to Friday during business hours). NB: Campus Care will triage an initial report from a staff member and generally direct it to Human Resource Services for further assessment and management.

(10) More information about Anonymous Reporting is set out below.

Other Members of the University Community

(11) Other members of the University community can make a report of sexual assault, sexual harassment, or sex-based harassment in the following ways:

a. Email campuscare@newcastle.edu.au or staffcare@newcastle.edu.au;
b. Phone Campus Care on (02) 4921 8600 (Monday to Friday during business hours). NB: Campus Care will triage a report from a member of the University community and generally direct it to Human Resource Services for further assessment and management.
c. Complete an online complaint notification. If a report is made anonymously the University will not be able to provide direct support to the complainant as the report will not identify the individual completing the form.

(12) More information about Anonymous Reporting is set out below.

Reporting Sexual Assault, Sexual Harassment and Sex-Based Harassment to External Agencies

Anonymous Reporting

(13) A complainant may choose to report sexual assault, sexual harassment or sex-based harassment anonymously. Such reports provide a point-in-time reference for the complainant only.

(14) Where possible, the University will act on anonymous reports. This may include undertaking an investigation into allegations in the report or taking appropriate preventative measures. The action the University may take and who is involved in taking this action will vary depending on a range of factors, including, for example, the identity of the respondent.

(15) In determining what action to take, the University is primarily focused on prevention of harm for the complainant and other University community members. If the respondent is a staff member, Human Resource Services will generally manage any investigation of the report.

(16) However, the University may be limited in its ability to respond to a report if the report does not include the identity of the respondent and detailed information about the alleged sexual assault, sexual harassment or sex-based harassment.

(17) If a complainant initially makes an anonymous report regarding sexual assault, sexual harassment or sex-based harassment, they can later choose to provide their identity.

(18) Anonymous complainants will be provided with a reference number after making a report and are encouraged to

record this reference number once provided as it can be used to change the report to an identified report at a later stage.

(19) An anonymous report can be changed to an identified report by contacting either Campus Care at campuscare@newcastle.edu.au or Human Resource Services at staffcare@newcastle.edu.au.

How will the University respond to a report?

Students

(20) Reports of sexual assault, sexual harassment or sex-based harassment made to the University by a student will be managed by Campus Care, for reports involving other students, or they will be managed by Campus Care with the support of Human Resource Services, for reports involving staff members or other members of the University community.

(21) Each report of sexual assault, sexual harassment or sex-based harassment will undergo an initial risk assessment. This assessment is to determine if:

a. any support mechanisms or adjustments required in view of the report;
b. there is any immediate or serious threat to any person; or
c. if the University may be required to provide information to a law enforcement agency or regulatory authority.

(22) Campus Care and/or Human Resource Services will continue to assess the risk in consultation with the complainant while it is managing the report.

(23) Following the initial risk assessment, Campus Care and/or Human Resource Services may take one or more of the following actions in consultation with the complainant:

a. provide support to and consult with the complainant (see clause 26);
b. provide information to a law enforcement agency or regulatory authority;
c. refer the matter to be considered under an alternate process as noted in clause 2;
d. take appropriate action to minimise any immediate risk to health and safety;
e. any other step the University considers appropriate to respond to the report.

(24) In determining what action to take at this stage, and throughout the University's response to a report, the University will be guided by the wishes of the complainant, the University's aim to prevent harm to the complainant and other University community members and its obligations under law.

(25) Where the complainant makes an identified report, Campus Care and/or Human Resource Services will generally:

a. explain to the complainant how to access support services;
b. allow the complainant to provide additional information;
c. discuss with the complainant next steps in responding to their report, including but not limited to whether they want to:
    i. proceed with referring the matter to a misconduct process; or
    ii. report to a relevant law enforcement agency; and
d. discuss with the complainant an outline of the report management and investigation process.

(26) If a complainant initially declines to proceed with a misconduct process, a complainant can, at a future time, request the University refer the matter for assessment of misconduct or serious misconduct.

(27) To do so the complainant should contact Campus Care at campuscare@newcastle.edu.au. While a complainant may request that a report is referred to a disciplinary process at any time, complainants should note that records are retained for particular periods in accordance with the University Records Governance Policy.

(28) The process above will vary if the report is made anonymously. While the University will generally follow the process set out above for anonymous reports, the University will not be able to consult with the complainant. Where a complaint is initially made anonymously and the complainant later identifies themselves, the University will consult with the complainant about any steps remaining in this process and consider whether any step in the process should be revisited with the complainant's input.

(29) Throughout the process, including any investigation, Campus Care and/or Human Resource Services, will aim to keep the complainant informed about key steps in the process, and where appropriate what these steps involve, including any decision to refer the matter to a misconduct process, the outcome of any misconduct process or if the University determines not to take further action. Although, in some circumstances there may be limits on the information that can be shared with the complainant, for example, to protect the confidentiality of other persons involved.

Staff and Other Members of the University Community

(30) Reports of sexual assault, sexual harassment or sex-based harassment made to the University by a staff member or other member of the University community may initially be triaged by Campus Care, however will generally be directed to Human Resource Services for further assessment and management, as set out below. However, Campus Care may continue to manage the process for reports concerning students. Who manages the complaint is generally driven by capacity within each team at that time, and the wishes of the complainant.

(31) Each report of sexual assault, sexual harassment or sex-based harassment will undergo an initial risk assessment. This assessment is to determine if:

a. any support mechanisms or adjustments required in view of the report;
b. there is any immediate or serious threat to any person; or
c. if the University may be required to provide information to a law enforcement agency or regulatory authority.

(32) Human Resource Services and/or Campus Care will continue to assess the risk in consultation with the complainant while it is managing the report.

(33) Following the initial risk assessment, Human Resource Services and/or Campus Care may take one or more of the following actions in consultation with the complainant:

a. provide support to and consult with the complainant;
b. provide information to a law enforcement agency or regulatory authority;
c. refer the matter to be considered under an alternate process as noted in clause 2;
d. take appropriate action to minimise any immediate risk to health and safety;
e. any other step the University considers appropriate to respond to the report.

(34) In determining what action to take at this stage, and throughout the University's response to a report, the University will be guided by the wishes of the complainant, the University's aim to prevent harm to the complainant and other University community members and its obligations under law.

(35) Where the complainant makes an identified report, Human Resource Services and/or Campus Care will generally:

a. explain to the complainant how to access support services;
b. allow the complainant to provide additional information;

c. discuss with the complainant next steps in responding to their report, including but not limited to whether they want to:
    i. proceed with referring the matter to a misconduct process; or
    ii. report to a relevant law enforcement agency; and
d. discuss with the complainant an outline of the report management and investigation process.

(36) If a complainant initially declines to proceed with a misconduct process, a complainant can, at a future time, request the University refer the matter for assessment of misconduct or serious misconduct. To do so the complainant should contact Human Resource Services at staffcare@newcastle.edu.au.

(37) While a complainant may request that a report is referred to a disciplinary process at any time, complainants should note that records are retained for particular periods in accordance with the University Records Governance Policy.

(38) The process above will vary if the report is made anonymously. While the University will generally follow the process set out above for anonymous complaints, the University will not be able to consult with the complainant. Where a complaint is initially made anonymously and the complainant later identifies themselves, the University will consult with the complainant about any steps remaining in this process and consider whether any step in the process should be revisited with the complainant's input.

(39) Throughout the process, including any investigation, Human Resource Services and/or Campus Care, will aim to keep the complainant informed about key steps in the process and, where appropriate what these steps will likely involve, including any decision to investigate the report, refer the report to a misconduct process, the outcome of any misconduct process or if the University determines not to take further action. Although, in some circumstances there may be limits on the information that can be shared with the complainant, for example, to protect the confidentiality of other persons involved.

Section 4 - Misconduct Process

(40) Where a decision is made by the University to proceed with a misconduct process against a respondent the report will be referred to (unless otherwise provided for in the Student Conduct Rule or the Enterprise Agreement):

a. the Office of the Senior Deputy Vice-Chancellor (Academic & Global) or nominee for assessment against the provisions of the Student Conduct Rule, where the alleged respondent is a University student; or
b. the Chief People and Culture Officer or nominee for assessment in accordance with the applicable staff Enterprise Agreement and /or the relevant contract of employment, where the alleged respondent is a University staff member.
c. the Chancellor or nominee (or Deputy Chancellor, in the case of an allegation against the Chancellor) or nominee for an assessment in accordance with relevant governing documents, where the alleged respondent is an external Committee member or External Council member appointed by Council or the Minister (if they are not a University staff member or University staff member);
d. the Senior Deputy Vice-Chancellor (Academic & Global) or nominee for an assessment in accordance with relevant governing documents, including the Student Conduct Rule where the alleged respondent is an elected student member of Council;
e. the Chief People and Culture Officer or nominee for an assessment in accordance with relevant governing documents, including the Enterprise Agreement and /or the relevant contract of employment where the alleged respondent is an elected staff member of Council or ex-officio members such as the Vice-Chancellor and President Academic Senate.

(41) The University has obligations, including under work, health and safety legislation to take reasonable steps to protect the safety of staff, students and other members of the University community. Due to these obligations, there may be circumstances where the University determines it needs to take action to respond to a report that is different to the action the complainant may want or has requested. This may include, for example, referring a report for consideration under a misconduct process or taking preventative steps to minimise the risk of harm to staff or students. If this occurs, the University will aim to discuss this with the complainant prior to taking this step and will ensure that the complainant continues to have access to the available supports and information about the process.

Section 5 - Bystander Intervention

(42) The University values and encourages reasonable and safe actions by those who witness or are told about sexual assault, sexual harassment, or sex-based harassment after it occurs (bystanders) to prevent or stop sexual assault, sexual harassment or sex-based harassment from occurring or continuing, and to support those impacted by sexual assault, sexual harassment or sex-based harassment.

(43) The University seeks to equip its students and staff to be active bystanders through education, training, information and support, recognising that some are personally affected by witnessing sexual assault, sexual harassment or sex-based harassment.

(44) The University encourages those who witness sexual assault, sexual harassment or sex-based harassment to report them to the University in accordance with clauses 7 (for students) and clause 9 (for staff members) and to make use of the support services listed in clauses 48 - 54 if they require assistance and support.

(45) The University will generally respond to reports from a bystander by following the processes set out in clauses 20 to 29 or 30 to 39, depending on the identity of the respondent. Generally, the University will contact the person who is reported to have experienced the sexual assault, sexual harassment or sex-based harassment at an early stage in this process to provide them with support and to consult with them about the process.

Section 6 - No Victimisation

(46) Members of the University community must not treat someone unfairly or harshly or otherwise subject another person to reprisal or detrimental action because of that person:

a. making a disclosure or a report of sexual assault, sexual harassment or sex-based harassment;
b. providing information about a disclosure or a report of sexual assault, sexual harassment or sex-based harassment;
c. supporting a person who has made a disclosure or report of sexual assault, sexual harassment or sex-based harassment;
d. being the subject of a report or disclosure of alleged sexual assault, sexual harassment or sex-based harassment; or
e. engaging in reasonable, safe bystander intervention.

(47) If a student or staff member believes they have been victimised, they can make a complaint via the mechanisms set out in clauses 7 and 9.

Section 7 - Support

(48) Support is available to all members of the University community who are affected by sexual assault, sexual harassment or sex-based harassment.

Students

(49) For students, this support includes:

a. face-to-face, phone, and online counselling sessions; health services; after hours crisis support line; and campus security. Further information, including translation services is available on the University website;
b. advice in relation to academic processes, if their studies are impacted.

(50) To access support:

a. students may contact Campus Care;
b. Visit this website: www.newcastle.edu.au/campus-life/respect

Staff

(51) For staff, this support includes:

a. Confidential support via the Employee Assistance Program;
b. advice, guidance and support through any process for the complainant and respondent via Human Resource Services.

(52) To access support:

a. staff may contact Human Resource Services on staffcare@newcastle.edu.au.
b. Visit the website: Employee Assistance Program.

General

(53) Respondents will be offered support by the University independent of the support provided to the complainant, witnesses or others who are aware of a report of sexual assault, sexual harassment or sex-based harassment.

(54) Members of the University community can also seek advice, information and support from external agencies or raise concerns if they are not content with the University's response. These external agencies include:

a. Police;
b. Australian Human Rights Commission;
c. Anti-Discrimination NSW;
d. Tertiary Education Quality and Standards Agency;
e. SafeWork NSW;
f. Fair Work Australia;
g. Fair Work Ombudsman;
h. NSW Ombudsman.

(55) Information about external support services is available on the University website.

Status and Details

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Effective Date	10th May 2024
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Responsible Executive	Nathan Towney Deputy Vice-Chancellor Engagement and Equity +61 2 4055 3001
Enquiries Contact	Office of the Senior Deputy Vice-Chancellor (Academic & Global)

Glossary Terms and Definitions

"University" - The University of Newcastle, a body corporate established under sections 4 and 5 of the University of Newcastle Act 1989.

"Council member" - A person who is a member of the University Council as described in Section 8B of the University of Newcastle Act, 1989.

"Risk" - Effect of uncertainty on objectives. Note: An effect is a deviation from the expected, whether it is positive and/or negative.

"Risk assessment" - The overall process of risk identification, risk analysis, and risk evaluation.

"Student" - A person formally enrolled in a course or active in a program offered by the University or affiliated entity.

"Staff" - Means a person who was at the relevant time employed by the University and includes professional and academic staff of the University, by contract or ongoing, as well as conjoint staff but does not include visitors to the University.