

Policy Title: Sexual Assault and Sexual Harassment

Policy Owner: Senior Deputy Vice-Chancellor

Keywords: sexual assault, sexual harassment, respectful relationships, disclosure

Policy Code: PL303

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1. INTENT

Edith Cowan University (ECU or the University) is committed to promoting Respectful Relationships and striving for an environment of physical, psychological and emotional security.

Where Sexual Assault or Sexual Harassment occurs and/or is disclosed, it is accepted no two situations are the same, and each person's response is unique. What is consistent and underpins the approach taken by the University towards these matters is the principle of responding to all situation and all involved persons with dignity, respect and empathy.

2. ORGANISATIONAL SCOPE

This policy applies to all members of the University Community.

Within scope are all current, recent and historical incidents of Sexual Assault and Sexual Harassment occurring while the member of the University Community was engaged in an interaction or activity undertaken in the course of work, study, research, living or socialising that is associated with the University, including:

- a. When the interaction or activity occurs on, or in, a campus, property or facility, owned, leased, provided or occupied by the University, including accommodation;
- b. When the interaction or activity involves the use of University owned, leased or provided resources such as information and communication technologies, digital platforms and vehicles;
- c. When the interaction or activity is related to University business but does not occur on a University premises, such as whilst on field trips, placements and internships, conferences, social functions and camps, or in attendance at licensed and other community or commercial premises;
- d. When the Member of the University community is participating in any activity as a member of staff, student, researcher or other representative of the University.

Where an allegation of Sexual Assault or Sexual Harassment is made against a person who is not a member of the University Community, and/or, the incident is not connected to an interaction or activity undertaken in the course of work, study, research, living or socialising that is associated with the University, the University will endeavour to provide support and information, and, as appropriate or required, liaise with any relevant authority; however, the University itself may not take further action including conducting any investigation of the matter.

3. DEFINITIONS

Term:	Definition:
Disclosure	Letting someone know about new information or about information that was previously kept secret.
Industrial Instrument	An instrument that has legal application with respect to minimum entitlements to those employees covered within its scope.
Respectful Relationships	<p>For the purpose of this policy a Respectful Relationship is one where a person shows they value other people through their words and actions. People are treated with care and with consideration for the effect words or actions may have.</p> <p>Characteristics of Respectful Relationships include:</p> <ul style="list-style-type: none"> • feeling safe • trust and honesty • being valued • being cared about • being free to be yourself • being considerate of personal space • listening and being heard • being able to disagree or say no without fear of being criticised or hurt • being supported to make your own choices • being encouraged to grow, learn and succeed • being able to make mistakes • being safe and supported to fully explore creative expression and learning experiences • working out arguments by talking and compromising • not being ignored
Sexual Assault	Sexual assault includes a range of behaviours, all of which are unacceptable and constitute a crime. Sexual assault occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent, including when they have withdrawn their consent.
Sexual Harassment	In WA, legislative provisions in relation to sexual harassment exist both under the state Equal Opportunity Act 1984 and the federal Sex Discrimination Act 1984.

	<p>Sexual harassment is defined in the Sex Discrimination Act 1984 (Cth) as any unwelcome sexual advance, request for sexual favours or conduct of a sexual nature towards another person in circumstances where a reasonable person could have anticipated that the person harassed would be offended, humiliated or intimidated.</p> <p>Sexual harassment is defined in the Equal Opportunity Act 1984 (WA) as any unwelcome sexual advance, request for sexual favours or conduct of a sexual nature with another person where there are reasonable grounds for believing that a rejection, refusal or objection would disadvantage, or has disadvantaged, the person's employment, possible employment, education or accommodation.</p> <p>Examples include inappropriate staring or leering; sexually suggestive comments or jokes; sexually explicit pictures, emails or texts; repeated or inappropriate invitations to date; intrusive questions about private life or physical appearance.</p> <p>Sexual Harassment is not behaviour based on mutual attraction, friendship and respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment.</p> <p>For the purpose of this policy both definitions apply.</p>
Trauma Informed Approach	<p>A Trauma Informed Approach is a response which prioritises safety, choice, trustworthiness and empowerment, and is guided by an understanding that individuals will respond differently to what they have experienced and require an individual response or intervention that:</p> <ul style="list-style-type: none"> • Realises the widespread impact of trauma and understands potential paths for recovery; • Recognises the signs and symptoms of trauma in all impacted people including direct and indirect impacts; • Responds by fully integrating knowledge about trauma into policies, procedures, and practices; and • Seeks to actively resist re-traumatisation.
University Community	<p>All staff and students of the University, together with the University's placement hosts, business partners, third party providers, clients, guests and visitors.</p>

4. POLICY CONTENT

Prevention

- 4.1. Promoting and demonstrating Respectful Relationships as well as striving for an environment free from Sexual Assault and Sexual Harassment is a responsibility shared by all members of the University Community.
- 4.2. Communication, awareness raising and increasing knowledge across the University Community are critical components in addressing Sexual Assault and Sexual Harassment and improving outcomes. ECU will:
 - a. Ensure the University's stance on Respectful Relationships and the shared responsibility for addressing Sexual Assault and Sexual Harassment and improving outcomes is covered during induction, orientation and all other on-boarding of students, staff and third parties into the University Community;
 - b. Regularly reinforce the expectation of Respectful Relationships within the University Community;
 - c. Ensure knowledge relating to Sexual Assault and Sexual Harassment remains contemporary and, where reasonable and practicable, continually improve related training, tools, information and responses;
 - d. Take reasonable steps to ensure staff and students receive awareness and prevention training relevant to the prevention of Sexual Assault and Sexual Harassment. This may, where reasonable and practicable, include implementation of mandatory training for staff and students.

Identification

- 4.3. When safe to do so, students and staff not directly involved in an incident of Sexual Assault or Sexual Harassment (bystanders) are both encouraged and empowered by the University to intervene and to respectfully identify behaviours that do not reflect the University's stance on Respectful Relationships.
- 4.4. Individuals requiring assistance to better understand Sexual Assault or Sexual Harassment and identify if an incident of this nature has occurred are encouraged to seek advice from an ECU provided support service such as the Student Life counselling service, an equity officer, a University Contact Officer or an HR Business Partner.

Reporting

- 4.5. Disclosure of all Sexual Assault and Sexual Harassment incidents is encouraged.
- 4.6. ECU acknowledges the courage often required to make a Sexual Assault or Sexual Harassment disclosure and is committed to:
 - a. Ensuring information about Sexual Assault and Sexual Harassment, including available supports and reporting options is provided through multiple channels, is accessible to and easily understood by staff and students, and can be accessed at any time;
 - b. Providing a mechanism for anonymous disclosures;
 - c. Informing staff and students that, unless they are officially required by the University to do so, they are not expected to investigate or provide counselling, yet are expected to know how to access University provided tools and information that will assist in taking appropriate action should they receive a disclosure;

- d. Taking disclosures seriously and responding in the shortest reasonable timeframe;
 - e. Handling Sexual Assault and Sexual Harassment matters with a Trauma Informed Approach meaning the approach prioritises safety, choice, trustworthiness and empowerment, and accepts that people respond differently and have different needs;
 - f. Minimising the number of times a person must tell their story and the number of people they must engage with is minimised. There is a 'No Wrong Door' approach to disclosures with the person receiving the initial disclosure being responsible for listening and assisting in identifying and accessing services.
- 4.7. De-identified data on disclosures and formal reports will be collected and reported on to assist in determining the effectiveness of prevention actions and identify any trends or patterns that may assist in continually improving responses.

Responding

- 4.8. ECU will take all reasonable steps to ensure responses to disclosures of Sexual Assault and Sexual Harassment are handled respectfully, supportively and confidentially.
- 4.9. Precautionary actions of a disciplinary or non-disciplinary nature may be taken to ensure the safety and wellbeing of involved individuals.
- 4.10. When responding to a disclosure of Sexual Assault or Sexual Harassment, no pressure or expectation will be placed on an individual to either make, or not make, a formal complaint to the University or to a person or entity external to the University.
- 4.11. Support and information will be provided to all individuals involved with a Sexual Assault or Sexual Harassment matter including, where appropriate, assistance with impacts arising from the disclosure on capacity to work and study, and referrals to other organisations with specialised resourcing, skills and legal powers to respond.
- 4.12. ECU acknowledges a person wanting to talk to someone about a Sexual Assault or Sexual Harassment incident (disclose) may not also want the matter to be progressed beyond the initial disclosure, such as to a formal investigation. As far as reasonable and practicable the right of the individual to choose the path best for them will be respected.
- 4.13. Notwithstanding the above, situations may arise where ECU must make an informed decision to act on the information they have received. ECU will act when:
- a. It is reasonably believed there is an immediate and ongoing risk to the safety and wellbeing of the University Community;
 - b. An appropriate response is identified which is reasonably expected to mitigate future risk, and it is reasonably believed action can be taken without identifying the person making the disclosure;
 - c. The person to whom the disclosure is made, and the nature of the information disclosed is such that it falls within that person's legally mandated requirement to report.
- 4.14. When further action must be taken without the explicit agreement of the person making the disclosure, every reasonable and practicable effort will be made to:
- a. Inform the person making the disclosure why the action is necessary; and
 - b. Ensure supports and protections reasonably believed to be necessary are in place for the person making the disclosure.

- 4.15. As far as reasonable, involved parties will be advised of expected timelines for actions within the control of ECU to be addressed and finalised.
- 4.16. All Sexual Assault and Sexual Harassment disclosures will be responded to regardless of whether the matter has also been reported to police. The University is only able to take actions falling within its legislative powers. The University will act in accordance with the ECU Act and correlated Statutes, Rules, By-Laws, Industrial Instruments and policies. Actions which cannot be taken by the University include criminal investigations and decisions which result in the awarding of compensation.
- 4.17. Where there is a substantive reason to believe a disclosure is lacking in substance or vexatious the investigation will not progress.
- 4.18. Prompt action will be taken where the University becomes aware a person may be victimising or retaliating against a person involved in a Sexual Assault or Sexual Harassment disclosure or related investigation.
- 4.19. If, following an investigation, it is reasonably believed a student has sexually harassed or sexually assaulted a person, action will be taken in accordance with Statute 22 – Student Conduct and University Rules: General Misconduct Rules (Students).
- 4.20. If, following an investigation, it is reasonably believed a staff member has sexually harassed or sexually assaulted a person, action will be taken in accordance with the provisions within the relevant Industrial Instrument.
- 4.21. Situations may arise where a disclosure of Sexual Assault or Sexual Harassment is made against a person who is both a student and a member of staff. The University will consider the context of the incident, and the capacity within which the person was acting at the time of the disclosed incident and will investigate and respond accordingly.
- 4.22. If, following review and consideration of the context of a disclosed incident, the University reasonably believes the disclosed incident involves a person acting equally in their capacity as a student and a member of staff, the University reserves the right to undertake dual investigations and respond accordingly.

5. ACCOUNTABILITIES AND RESPONSIBILITIES

The Senior Deputy Vice-Chancellor has overall responsibility for the content of this policy and its operation

The Director, Human Resources Services Centre has responsibility for currency of information and provision of advice on policy content relating to staff.

The Director, Student Life has responsibility for currency of information and provision of advice on policy content relating to students.

6. RELATED DOCUMENTS

Legislation

Occupational Health and Safety Act 1984
Fair Work Act 2009 (Cth)

Equal Opportunity Act 1984
Sex Discrimination Act 1984 (Cth)
Relevant Industrial Instruments

Statutes, By-Laws and Rules

[Statute 22 - Student Conduct](#)
[General Misconduct Rules \(Students\)](#)

Policies

[Code of Conduct \(Staff\)](#)
[Prevention of Harassment, Bullying, Discrimination and Violence](#)
[Student Code of Conduct](#)
[Health and Safety](#)

Operational documents and resources

[Staff/Student Personal Relationships FAQ](#)
[Enterprise Bargaining Agreement](#)

7. CONTACT INFORMATION

For queries relating to this document please contact:

Policy Owner	Senior Deputy Vice Chancellor
Staff related enquiries	Director, Human Resources Services Centre
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8. APPROVAL HISTORY

Policy approved by:	Vice Chancellor
Date policy first approved:	11 December 2020
Date last modified:	11 December 2020
Revision history:	New policy approved on 11 December 2020
Next revision due:	December 2023
HPCM file reference:	SUB/102537