

# Sexual Misconduct Prevention and Response for Students Procedure

## Section 1 - Purpose and Scope

(1) This Procedure applies to all students who have experienced, witnessed or otherwise been exposed to Sexual Misconduct. It outlines The University of Queensland's (UQ or the University) processes and activities to promote and foster a University environment for students that is safe, respectful and free from all forms of Sexual Misconduct.

(2) The complex nature of Sexual Misconduct means that there may be circumstances in individual cases where this Procedure is abridged, supplemented or changed to suit the circumstances of a particular case. In any such case, UQ will draw on the principles and key requirements outlined in its [Sexual Misconduct Prevention and Response Policy](#) (Policy) and advise the relevant parties about the procedures that will be adopted.

(3) Nothing in this Procedure prevents students from accessing other policies or procedures available to them, including but not limited to the [Student Grievance Resolution Policy](#) and [Procedure](#), the [Student Integrity and Misconduct Policy](#) and [Procedure](#), or the [Public Interest Disclosure Policy](#) and [Procedure](#).

## Section 2 - Process and Key Controls

(4) UQ will implement appropriate processes, systems and education programs to promote and foster a safe environment for the UQ Community, including for preventing and responding to Sexual Misconduct.

(5) Students who have experienced, witnessed or otherwise been exposed to Sexual Misconduct may request or be offered Support from UQ and/or make a Formal Report to UQ.

(6) The Policy and this Procedure do not govern disciplinary processes in relation to members of the UQ Community who are alleged to have engaged in Sexual Misconduct. Those processes are governed by the Disciplinary Framework. The Policy and this Procedure deal with UQ's prevention of and response to Sexual Misconduct outside the Disciplinary Framework.

(7) Subject to clause 6, the provision of Support and responding to Formal Reports by students of Sexual Misconduct will be managed in accordance with this Procedure. Further information and/or advice for students is available from the Sexual Misconduct Support Unit.

## Section 3 - Key Requirements

### Prevention of Sexual Misconduct

#### Maintaining a Safe and Respectful Environment

(8) All members of the UQ Community are required to take all reasonable steps to maintain a safe and respectful environment at or related to UQ.

(9) UQ leaders (including student leaders) have particular responsibilities to promote and foster an environment that is free from all forms of Sexual Misconduct.

## **Education**

(10) UQ provides a number of educational opportunities for the UQ Community to support the understanding of, prevention of and appropriate response to Sexual Misconduct.

(11) The Human Resources Division and the Sexual Misconduct Support Unit will relevantly:

- a. coordinate an appropriately trained and supported First Responder Network;
- b. coordinate the delivery of an education program designed to assist in the prevention of Sexual Misconduct in the UQ Community;
- c. coordinate appropriate Support for students affected by Sexual Misconduct;
- d. establish, oversee and coordinate Sexual Misconduct prevention and response protocols and processes, communications, awareness and training; and
- e. carry out any other matters required from time-to-time to perform its functions.

## **Support for Students who have Experienced, Witnessed or otherwise been Exposed to Sexual Misconduct**

### **Type of Support Available to UQ Community**

(12) Support is available to students who have experienced, witnessed or otherwise been exposed to Sexual Misconduct. This includes students who may be supporting someone who has experienced, witnessed or otherwise been exposed to Sexual Misconduct. In an emergency, members of the UQ Community should contact emergency services by dialling triple zero (000).

(13) Support is available from the following areas within UQ:

- a. First Responder Network – details are available on [www.respect.uq.edu.au](http://www.respect.uq.edu.au);
- b. Sexual Misconduct Support Unit – contactable via email [sexualmisconductsupport@uq.edu.au](mailto:sexualmisconductsupport@uq.edu.au);
- c. [Discrimination and Harassment Contact Officers](#);
- d. The Graduate School; and
- e. Directors of Research Training.

(14) Support may include, but is not limited to:

- a. referral to medical services;
- b. counselling by a qualified counsellor or other mental health professional;
- c. taking Reasonable Measures (see clauses 39 to 45 below);
- d. assistance in making a Formal Report should the student wish to do so;
- e. assistance through the process of an investigation or determination (to the extent outcomes are able to be disclosed) of allegations pursuant to the Disciplinary Framework; and
- f. assistance in making a report to the police or other external agency.

(15) Accessing Support does not preclude a student from also reporting Sexual Misconduct through any of the options listed under “Formal Reports of Sexual Misconduct” (clauses 20 to 31) of this Procedure.

## **Offer or Request for Support**

(16) UQ will take all reasonable steps to ensure that Support is provided to all students affected by Sexual Misconduct. This includes, but is not limited to, Complainants, Third Party Reporters, Respondents, and any witnesses. This may include facilitating access to one of the Support options outlined under clauses 12 to 15 above.

(17) Students who are offered or who request Support can expect the person assisting them to:

- a. provide information relating to the available Support and the Reasonable Measures that may be implemented;
- b. outline the options available to help the person determine any next steps they may wish to take;
- c. ask the person whether they wish to proceed with either a Formal Report or a report to the police or other external agency; and
- d. provide other information set out under clause 26 and/or offer assistance in any other way as appropriate in the circumstances.

(18) An offer or request for Support in the context of this section does not itself initiate further action by UQ. A student requesting Support is not required to make a Formal Report, and a member of the UQ Community who receives a request for Support from a student is not required to make a Formal Report in relation to the matter as a Third Party Reporter. However, if the student offered or making the request for Support wants UQ to take further action, they must make a Formal Report. Support will remain available while any Formal Report is progressed.

(19) There may be circumstances where UQ is required to take further action as a result of an offer of or request for Support even if the person offered or requesting Support does not elect to make a Formal Report – see clauses 32 to 35 of this Procedure.

## **Formal Reports of Sexual Misconduct**

### **How to make a Formal Report**

(20) Any member of the UQ Community may make a written or verbal Formal Report, including through:

- a. the [Sexual Misconduct Support Unit reporting webpage](#); or
- b. the [Complaints and Appeals webpage](#).

(21) UQ may make a report to the police or other relevant external agencies (see clauses 32 to 35 of this Procedure) and it will be considered a Formal Report under this Procedure if the matter is referred back to UQ by an external agency or separately notified to any of the UQ bodies referred to in clause 20 above.

### **Anonymous Formal Reports and Formal Reports from a Third Party Reporter**

(22) In some cases, students may prefer to make a Formal Report without including names or other identifying details.

(23) Students who witness or become aware of Sexual Misconduct may also make a Formal Report and are encouraged to do so.

(24) UQ will, where possible, act on anonymous Formal Reports including reports from a Third Party Reporter.

(25) Formal Reports that are anonymous and/or contain minimal information may limit UQ's ability to take further action.

### **What Happens when a Formal Report is Received?**

(26) The person receiving a Formal Report will take each of the steps below as are appropriate in the circumstances:

- a. inform the student making the Formal Report of the Support available to them, including Reasonable Measures that may be implemented;
- b. outline the options available to the student making the Formal Report to help them determine any next steps they may wish to take;
- c. inform the student making the Formal Report that if the Formal Report does not relate to conduct covered by the Disciplinary Framework, the University may not be able to take any further action beyond the provision of Support, including Reasonable Measures;
- d. outline UQ's processes for investigation and determination of allegations pursuant to the Disciplinary Framework and the likely burden of proof that will apply in any investigation;
- e. inform the student making the Formal Report that conducting an investigation and determination of an allegation pursuant to the Disciplinary Framework may not be possible without the student's participation (including by assisting in preparing evidence and participating in a hearing);
- f. ask the person making the Formal Report how they would like their report resolved (UQ will take this into account, but will take such further action as it considers appropriate in the circumstances);
- g. ask the person whether they wish to make a report to the police or other external agency;
- h. outline how Formal Reports are progressed;
- i. outline the likely timeframes, including when any updates are likely to be provided;
- j. provide the name of a UQ contact person who will provide updates and from whom they can seek further information; and
- k. offer assistance in any other way as appropriate in the circumstances.

### **Who Will a Formal Report be Provided To?**

(27) A Formal Report will be provided to the following officer/s at UQ:

- a. if the Respondent is a student, the Academic Registrar;
- b. if the Respondent is a member of staff covered by the [UQ Enterprise Agreement 2021-2026](#), the Head of Organisational Unit where the Respondent is engaged and the Chief Human Resources Officer (or nominee); or
- c. if the Respondent is a member of the UQ Community who is not a student, or a staff member to whom the Enterprise Agreement applies, the Head of Organisational Unit responsible for the engagement of the Respondent or other person to whom the Respondent reports and the Chief Human Resources Officer (or nominee).

(28) If the Respondent holds more than one status, the Formal Report may be provided to all relevant officers. For example, a Respondent who is both a student and a member of staff covered by the Enterprise Agreement (including a student enrolled in a Higher Degree by Research program who is also employed as a member of staff covered by the Enterprise Agreement) at the University may be subject to multiple disciplinary processes in relation to the same alleged conduct, if a Formal Report is made pursuant to both clauses 27(a) and 27(b).

(29) If the Respondent holds none of the above statuses or the conduct is not covered by the Disciplinary Framework, the University may be unable to refer the Formal Report for further action within the University.

### **How Will a Formal Report be Progressed?**

(30) Once a Formal Report is provided to the relevant officer/s at UQ under clauses 27 to 29, further action including a disciplinary process may be taken by UQ pursuant to the Disciplinary Framework.

(31) At the conclusion of any process for responding to a Formal Report, the Complainant will be provided with outcome advice as is relevant (to the extent outcomes are able to be disclosed), having regard to the welfare and safety of the persons involved and subject to UQ's obligations. This advice will be provided in writing and the

Complainant will be offered the opportunity to discuss the outcome advice in a face to face meeting (with a support person present) with the officer referred to under clauses 27 to 29 or their delegate.

## **Reporting to the Police or other External Agency**

(32) UQ will offer Support to a student who wishes to report a matter to the police.

(33) Two basic principles underpin UQ's position on reporting Sexual Misconduct to the police or other external agency:

- a. Any person can make a report to the police or other external agency at any time. No-one can compel or prevent any person from reporting or referring a matter to the police or other external agency and no-one is permitted to exert any pressure on any person to dissuade them from reporting or referring a matter to the police or other external agency; and
- b. Generally, it should be the Complainant who decides whether or not they report the matter to the police or other external agency.

(34) Offers or requests for Support and Formal Reports will not be reported by UQ to the police or other external agency without the consent of the Complainant, except where:

- a. UQ is required by law to report the matter; or
- b. the Vice-Chancellor is satisfied there is a risk to the health, safety or wellbeing of members of the UQ Community.

(35) When reporting an offer or request for Support or a Formal Report to the police or other external agency, UQ will only provide as much information as is required by law, or as necessary for action to be taken having regard to the health, safety or wellbeing of members of the UQ Community.

## **Victimisation**

(36) UQ will not tolerate Victimisation of any member of the UQ Community involved in a Formal Report or an offer or request for Support, including the Complainant, the person/s who are the subject of the Formal Report or receiving Support and/or those involved in managing the matter.

(37) Any student who feels that they are experiencing Victimisation should inform any of the following parties so the matter can be appropriately investigated:

- a. the Sexual Misconduct Support Unit via the [Sexual Misconduct Support Unit support webpage](#); or
- b. the Student Complaints and Grievance Resolution unit.

(38) Reasonable Measures may be used to prevent Victimisation of those involved in a Formal Report or receiving Support.

## **Reasonable Measures**

(39) Students affected by Sexual Misconduct can make a request for Reasonable Measures or UQ may implement Reasonable Measures as are necessary or appropriate in the circumstances. Students affected by Sexual Misconduct include, but are not limited to, a Complainant, Third Party Reporters, Respondents, and any witnesses.

(40) The implementation of Reasonable Measures for affected students will be determined by either Student Affairs Division, Academic Services Division or Human Resources Division on a case-by-case basis, in recognition of the complexities and sensitivities associated with managing Sexual Misconduct, and in accordance with UQ policies and

procedures, relevant contracts and the Enterprise Agreement if applicable.

(41) Any Reasonable Measures implemented following an offer or request for Support or Formal Report, during an investigation, disciplinary process pursuant to the Disciplinary Framework, or investigation by the police or other external agency, do not amount to a determination as to whether Sexual Misconduct has occurred.

(42) In implementing any Reasonable Measures, UQ will:

- a. be Trauma-Informed;
- b. consider the risk to the affected parties;
- c. where applicable, apply the principles of Procedural Fairness;
- d. seek to balance any conflicting rights and interests;
- e. seek to prevent Victimisation;
- f. discuss any proposed Reasonable Measures with affected parties where appropriate; and
- g. where appropriate, endeavour to implement an acceptable outcome for affected parties involved.

(43) At times, meeting the expectations of all parties will be difficult. If an agreement cannot be reached between all parties about the Reasonable Measures, the following person will make a final decision having considered the position of all relevant parties:

- a. if the Respondent is a student, the Academic Registrar;
- b. if the Respondent is a member of staff covered by the Enterprise Agreement, the Head of Organisational Unit responsible for engagement or management of the Respondent, in consultation with the Chief Human Resources Officer (or nominee), for the purposes of the Enterprise Agreement; or
- c. if the Respondent is a member of the UQ Community who is not a student, or a staff member to whom the Enterprise Agreement applies, the Head of Organisational Unit responsible for the engagement or management of the Respondent or other person to whom the Respondent reports.

(44) Reasonable Measures for students will be implemented by the Sexual Misconduct Support Unit and may include, but are not limited to:

- a. housing re-location or short term emergency housing;
- b. class timetable changes;
- c. temporary remote learning or working arrangements;
- d. other adjustments to working arrangements;
- e. other schedule changes;
- f. academic adjustments;
- g. special considerations for withdrawal without penalty;
- h. work placement reassignment;
- i. emergency funding;
- j. wellbeing and safety planning;
- k. measures to minimise the risk of Victimisation;
- l. residential separation arrangements;
- m. other safety measures.

(45) Students who are not satisfied with a decision made in relation to Reasonable Measures under clauses 39 to 44 of this Procedure have rights to appeal the decision under (as relevant) the [Student Grievance Resolution Policy and Procedure](#), or any other UQ policy, procedure or process applicable to the decision.

# Section 4 - Appendix

## Definitions

(46) Words or phrases used in this Procedure and not otherwise defined in this document have the meaning they have in the [Sexual Misconduct Prevention and Response Policy](#).

Term	Definition
First Responder Network	Can be contacted through the details outlined on <a href="http://www.respect.uq.edu.au">www.respect.uq.edu.au</a> . This is the group of individuals who are trained to assist members of the UQ Community who have experienced, witnessed or otherwise been exposed to Sexual Misconduct, including by assisting them to: <ul style="list-style-type: none"><li>• request and access Support; and</li><li>• make Formal Reports.</li></ul>
Procedural Fairness	Is a principle that is applied by the University to ensure that decisions are made in accordance with the rule against bias and the hearing rule (i.e. a respondent is given an opportunity to present their case with knowledge of any prejudicial material that may be taken into account by the decision-maker).

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	20th December 2021
<b>Review Date</b>	20th December 2026
<b>Approval Authority</b>	Vice-Chancellor and President
<b>Approval Date</b>	20th December 2021
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<b>Policy Owner</b>	Kathryn Blyth Director, Academic Services Division and Academic Registrar
<b>Enquiries Contact</b>	Academic Services Division