Sexual Misconduct and Gender-based Violence Prevention and Response for Staff Procedure

Section 1 - Purpose and Scope

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

(2) The complex nature of Sexual Misconduct and Gender-based Violence 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 and Gender-based Violence Prevention and Response Policy (Policy) and advise the relevant parties about the Procedures that will be adopted.

(3) Nothing in this Procedure prevents Staff and Contractors from accessing other policies or procedures available to them, including but not limited to the Public Interest Disclosure Policy and Public Interest Disclosure 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, Affiliated Organisations and Associated Entities, including for preventing and responding to Sexual Misconduct and Gender-based Violence.

(5) Staff and Contractors who have experienced, witnessed or otherwise been exposed to Sexual Misconduct or Gender-based Violence may be offered Support from UQ and/or make a Disclosure or 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 or Gender-based Violence. Those processes are governed by the Disciplinary Framework. The Policy and this Procedure deal with UQ's prevention of and response to Sexual Misconduct and Gender-based Violence outside the Disciplinary Framework.

(7) Subject to clause 6, the provision of Support and responding to Disclosures and Formal Reports by Staff and Contractors of Sexual Misconduct or Gender-based Violence will be managed in accordance with this Procedure. Further information and/or advice for Staff and Contractors is available from the Human Resources Division or the Safer Communities Service.

Section 3 - Key Requirements

Prevention of Sexual Misconduct and Gender-based Violence

Maintaining a Safe and Respectful Environment

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

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

Education

(10) UQ provides a number of educational opportunities for the UQ Community, Affiliated Organisations and Associated Entities to support the understanding of, prevention of and appropriate response to Sexual Misconduct and Gender-based Violence.

(11) The Human Resources Division and the Safer Communities Service will:

a. coordinate appropriately trained and supported Respect Network members;
b. including with the heads of organisational units, coordinate the delivery of an education program designed to assist in the prevention of Sexual Misconduct and Gender-based Violence in the UQ Community;
c. coordinate appropriate Support for Staff and Contractors affected by Sexual Misconduct or Gender-based Violence;
d. establish, oversee and coordinate Sexual Misconduct and Gender-based Violence 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 Staff and Contractors who have Experienced, Witnessed or otherwise been Exposed to Sexual Misconduct or Gender-based Violence

Type of Support Available to Staff and Contractors

(12) Support is available to Staff and Contractors who have experienced, witnessed or otherwise been exposed to Sexual Misconduct or Gender-based Violence. This includes Staff and Contractors who have made a Disclosure or Formal Report or who may be supporting someone who has experienced, witnessed or otherwise been exposed to Sexual Misconduct or Gender-based Violence. In an emergency, Staff and Contractors should contact UQ Security on 3365 3333 or through the UQSafe App, who can respond and contact emergency services as required.

(13) Support is available from the Safer Communities Service – contactable via email safercommunities@uq.edu.au.

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

a. referral to medical services;
b. access to translation or interpreter services;
c. access to an Accredited Specialist, qualified counsellor or other mental health professional;
d. taking Reasonable Measures, with the agreement of both the Discloser and Respondent or otherwise (see clauses 52 to 58 below);
e. assistance in making a Formal Report should the member of Staff or Contractor wish to do so;
f. 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;
g. assistance in making a report to the police or other external agency; and
h. undertaking ongoing risk assessments to manage and monitor any identified risks (see clauses 50 to 51 below).

(15) Accessing Support does not preclude Staff or Contractors from also reporting Sexual Misconduct or Gender-based

Violence through any of the options listed under 'Disclosures and Formal Reports of Sexual Misconduct and Gender-based Violence' (clauses 22 to 40) of this Procedure.

When Support will be Offered

(16) UQ will take all reasonable steps to ensure that Support is provided to all Staff and Contractors affected by Sexual Misconduct and Gender-based Violence. This includes, but is not limited to, Disclosers, Reporters, Respondents, and any witnesses.

(17) When a Disclosure or Formal Report is made, UQ will assign staff to collaboratively develop a tailored Support plan with each of the Discloser and the Respondent, in consultation with them. The plan may include facilitating access to one of the Support options outlined under clauses 12 to 15 above (including the implementation of Reasonable Measures) on an urgent and prioritised basis.

(18) Staff and Contractors who work with the Discloser and Respondent to develop the tailored Support plans will have relevant expertise and knowledge. Different Staff and Contractors will be assigned to each of the Discloser and Respondent.

(19) Staff and Contractors who are offered 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 in clause 31 and/or offer assistance in any other way as appropriate in the circumstances.

(20) An offer of Support or the making of a Disclosure in the context of this section does not itself initiate further action by UQ apart from the development of a tailored Support plan under clause 17 and the provision of Support (see clauses 12 to 15). A Staff member or Contractor making a Disclosure is not required to make a Formal Report, and a person who receives a Disclosure from a Staff member or Contractor is not required to make a Formal Report in relation to the matter as a Reporter. However, if the Staff member or Contractor offered Support or making the Disclosure wants UQ to take further action, they must make a Formal Report. Support will remain available while any Formal Report is progressed.

(21) There may be circumstances where UQ is required to take further action as a result of an offer of Support or the making of a Disclosure even if the person offered Support or making the Disclosure does not elect to make a Formal Report including:

a. if it is necessary to do so for the safety and wellbeing of Students, Staff and/or Contractors, in which case UQ may implement Reasonable Measures or refer the alleged conduct for investigation under the Disciplinary Framework;
b. if the information provided may be reasonably believed to include fraud or corrupt conduct within the meaning of the Fraud and Corrupt Conduct Policy and/or the disclosure may be a Public Interest Disclosure within the meaning of the Public Interest Disclosure Policy, in which case UQ may refer the information to the relevant person under the Fraud and Corrupt Conduct Procedure and/or the Public Interest Disclosure Procedure; and
c. in the circumstances set out in clauses 43 to 46 of this Procedure.

Disclosures and Formal Reports of Sexual Misconduct and Gender-based Violence

How to make a Disclosure

(22) A member of Staff or Contractor may make a written or verbal Disclosure, including through:

a. the UQ Complaints and Appeals webpage;
b. the Safer Communities Service - Report webpage;
c. speaking to any Safer Communities Service member of staff – including by booking an appointment via Book a Sexual Misconduct Support Appointment;
d. by email to safercommunities@uq.edu.au;
e. by telephone call to +61 7 3443 1000.

(23) In some cases, Staff members or Contractors may prefer to make a Disclosure without including names or other identifying details. Staff members or Contractors may make an anonymous Disclosure through the avenues identified at clause 22. Disclosures that are anonymous and/or contain minimal information may limit UQ's ability to take further action.

(24) All persons, including the Discloser and Respondent, are entitled to be accompanied by a support person when they are asked about the matters that are the subject of a Disclosure.

How to make a Formal Report

(25) Staff and Contractors may make a written or verbal Formal Report, including through:

a. the UQ Complaints and Appeals webpage;
b. the Safer Communities Service - Report webpage;
c. speaking to any Safer Communities Service member of staff – including by booking an appointment via Book a Sexual Misconduct Support Appointment;
d. by email to safercommunities@uq.edu.au;
e. by telephone call to +61 7 3443 1000.

(26) UQ may make a report to the police or other relevant external agencies (see clauses 43 to 46 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 above clause 25.

Anonymous Formal Reports and Formal Reports from Reporters and Third Parties

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

(28) Staff or Contractors who witness or become aware of Sexual Misconduct or Gender-based Violence may also make a Formal Report and are encouraged to do so.

(29) UQ will, where possible, act on anonymous Formal Reports including reports from Reporters and Third Parties.

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

What Happens when a Formal Report is Received?

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

a. inform the Staff member or Contractor making the Formal Report of the Support available to them, including Reasonable Measures that may be implemented;
b. outline the options available to the Staff member or Contractors making the Formal Report to help them

determine any next steps they may wish to take;

c. inform the Staff member or Contractor 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 Staff member or Contractor making the Formal Report that determination of an allegation pursuant to the Disciplinary Framework may not be possible without the Staff member's or Contractor's participation (including by assisting in preparing evidence and participating in an investigation or other form of inquiry);
f. ask the Staff members or Contractor 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 Staff member or Contractor 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.

(32) All persons, including the Discloser and Respondent, are entitled to be accompanied by a support person when they are asked about the matters that are the subject of a Formal Report.

Who will a Formal Report be Provided To?

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

a. if the Respondent is a member of staff covered by the University of Queensland Enterprise Agreement 2021-2026 (or as amended or replaced), the Head of Organisational Unit where the Respondent is engaged and the Chief Human Resources Officer (or nominee);
b. if the Respondent is a Student, the Academic Registrar; 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).

(34) 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 33(a) and 33(b).

(35) 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. However, UQ will consider the safety and wellbeing of Students, Staff and Contractors in determining the action it will take in response to such Formal Reports.

How will a Formal Report be Progressed?

(36) Once a Formal Report is provided to the relevant officer/s at UQ under clauses 33 to 35, further action including a disciplinary process may be taken by UQ pursuant to the Disciplinary Framework.

(37) UQ will refer all Formal Reports where the Respondent is a Student, Staff or Contractor for investigation under the

Disciplinary Framework, regardless of the context in which the Sexual Misconduct or Gender-based Violence is said to have occurred.

(38) Staff, Contractors or external persons involved in responding to Formal Reports, including dealing with Formal Reports pursuant to the Disciplinary Framework, will have Relevant Knowledge, experience, and expertise in relation to Sexual Misconduct and Gender-based Violence. Staff and Contractors involved in responding to Formal Reports will undertake training in these matters at least once every three years.

Timeframes

(39) In relation to the timeframes applicable to the finalisation of Formal Reports where the Respondent is a member of Staff or Contractor, or made by a member of Staff or Contractor where the Respondent is not a Student, member of Staff or Contractor:

a. The Policy and Procedure are designed to allow Formal Reports to be finalised within 45 business days of being made to the University.
b. Compliance with this timeframe, including as amended under clause 39(c), is not a pre-requisite to making any decision under the Policy or this Procedure. For the avoidance of doubt, failure to comply with the timeframe does not render any decision under the Policy or Procedure invalid.
c. The timeframe for finalisation may only be extended if:
    i. a person to whom the Formal Report has been provided under clause 33 or the relevant decision-maker under the Disciplinary Framework considers that an extension is required for one of the following reasons:
        - the conduct the subject of the Formal Report is the subject of a police investigation or court process;
        - to afford Procedural Fairness to the Respondent or any other person;
        - to allow the conduct the subject of the Formal Report to be appropriately investigated (including in a Person-Centred and Trauma-Informed way, if appropriate);
        - to allow that person sufficient time to consider the relevant material and make a decision;
        - to allow that person or another officer of the University to obtain legal advice;
        - to comply with a requirement under the Enterprise Agreement;
        - that person or another officer of the University has received legal advice that an extension is required.
    ii. Alternatively, the Chief Operating Officer determines that the extension is required in the particular circumstances.
d. The timeframe for finalisation may be extended pursuant to clause 39(c) with retrospective effect.
e. A person to whom the Formal Report has been provided under clause 33, or the relevant decision-maker under the Disciplinary Framework, is not required to notify the Discloser, the Respondent or any other person if the timeframe for finalisation has been extended or on what basis it has been extended.

Notice requirements

(40) If the Formal Report is progressed in a disciplinary process under the Disciplinary Framework, UQ will give written notice to the Discloser (unless the Discloser requests otherwise) as follows, to the extent permitted by the Privacy Policy and Privacy Management Procedure and the need to afford Procedural Fairness to the Respondent:

a. that an investigation has commenced. The Discloser and Respondent will be notified in that order, on the same day.
b. the outcome of the investigation. The Discloser and Respondent will be notified on the same day.

c. the outcome of the disciplinary process, including the decision, disciplinary action (if relevant), reasons for that outcome, and the right to make an internal or external complaint. The Discloser and the Respondent will be notified on the same day.
d. that a review has been lodged by the Respondent and information on potential outcomes of the review. The Discloser will be notified within two business days of the Respondent requesting the review.
e. the outcome of the review, including the decision, disciplinary action (if relevant), reasons for that outcome, and the right to make an internal or external complaint. The Discloser and the Respondent will be notified on the same day.

Disclosures and Formal Reports by a Third Party

(41) A Third Party may make a Disclosure or Formal Report about their experience of Gender-Based Violence or Sexual Misconduct where the Respondent is a Staff member or Contractor, in the same way as a Staff member or Contractor under this Procedure.

(42) Where the Discloser is a Third Party and the Respondent is a Staff member or Contractor, UQ will deal with the Disclosure or Formal Report (including the provision of Support to the Discloser) in the same way as it would deal with a Disclosure or Formal Report made by a Staff member or Contractor under this Procedure.

Reporting to the Police or other External Agency

(43) UQ will offer Support to a Staff member or Contractor who wishes to report a matter to the police.

(44) Two basic principles underpin UQ's position on reporting Sexual Misconduct and Gender-based Violence 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 Discloser who decides whether or not they report the matter to the police or other external agency.

(45) Offers of Support, Disclosures and Formal Reports will not be reported by UQ to the police or other external agency without the consent of the Discloser, 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.

(46) When reporting an offer of Support, a Disclosure 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

(47) UQ will not tolerate victimisation of any member of the UQ Community in an offer of Support, a Disclosure or a Formal Report, including the Discloser, the person/s who are the subject of the Disclosure or Formal Report or receiving Support and/or those involved in managing the matter.

(48) Any Staff member or Contractor who feels that they are experiencing victimisation should inform any of the

following parties so the matter can be appropriately investigated:

a. Human Resources Division; or
b. the Safer Communities Service via the Safer Communities Service support webpage.

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

Risk Assessments

(50) UQ will undertake a risk assessment following the receipt of any Disclosure or Formal Report. The risk assessment may identify any necessary or appropriate Reasonable Measures and manage and monitor any identified risks on an ongoing basis.

(51) The risk assessment will be undertaken by:

a. Safer Communities Service;
b. any other member of Staff, Contractor or external person engaged by the University, who has expertise in such risk assessment, competency in working with relevant specific cohorts, and Relevant Knowledge.

Reasonable Measures

(52) Staff and Contractors affected by Sexual Misconduct or Gender-based Violence can make a request for Reasonable Measures or UQ may implement Reasonable Measures as are necessary or appropriate in the circumstances. Staff and Contractors affected by Sexual Misconduct or Gender-based Violence include, but are not limited to, a Discloser, Reporters, Respondents, and any witnesses.

(53) The implementation of Reasonable Measures for affected Staff members and Contractors will be determined by the Human Resources Division on a case-by-case basis, in recognition of the complexities and sensitivities associated with managing Sexual Misconduct and Gender-based Violence, and in accordance with UQ policies and procedures, relevant contracts and the Enterprise Agreement if applicable. Insofar as Reasonable Measures in a particular case may also affect a Student, the Human Resources Division will consult with the Student Support and Wellbeing Services or Academic Services Division when determining the Reasonable Measures and the Student Support and Wellbeing Services or Academic Services Division will implement those Reasonable Measures that affect the Student or Students.

(54) Any Reasonable Measures implemented following an offer of Support, a Disclosure 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 or Gender-based Violence has occurred.

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

a. be Trauma-Informed and Person-Centred;
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.

(56) At times, meeting the expectations of all parties will be difficult. In the first instance, UQ may attempt to facilitate

agreement between the parties (including the Discloser and Respondent) about the Reasonable Measures if appropriate in the circumstances. If there is no agreement 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 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;
b. if the Respondent is a Student, the Academic Registrar; 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.

(57) Reasonable Measures for Staff and Contractors will be implemented by the Human Resources Division or the Safer Communities Service and may include, but are not limited to:

a. Housing re-location or short term emergency housing
b. Temporary remote learning or working arrangements
c. Other adjustments to working arrangements
d. Other schedule changes
e. Work placement reassignment
f. Emergency funding
g. Wellbeing and safety planning
h. Measures to minimise the risk of victimisation
i. Other safety measures.

(58) Staff and Contractors who are not satisfied with a decision made in relation to Reasonable Measures under clauses 52 to 57 of this Procedure have rights to appeal the decision under any UQ policy, procedure or process applicable to the decision.

Non-Disclosure Agreements

(59) The University will not use Non-Disclosure Agreements in relation to Disclosures or Formal Reports of Sexual Misconduct and/or Gender-based Violence unless a Discloser requests the use of a Non-Disclosure Agreement.

(60) If a Discloser requests the use of a Non-Disclosure Agreement in relation to Sexual Misconduct and/or Gender-based Violence, any such agreement with the University will not stop the Discloser from sharing their experience for the purpose of seeking Support and advice or prevent the University from complying with their reporting obligations.

(61) Any settlement terms agreed between a Discloser and the University will not contain a Non-Disparagement Clause that could have the effect of requiring the Discloser to keep their experience of Sexual Misconduct and/or Gender-based Violence confidential.

Section 4 - Appendix

Definitions

(62) Words or phrases used in this Procedure and not otherwise defined in this document have the meaning they have in the Sexual Misconduct and Gender-based Violence Prevention and Response Policy.

Term	Definition
Accredited Specialist	Means a person who meets the following criteria: a. a psychologist, social worker or counsellor registered or accredited with their relevant industry body; and b. has undertaken formal training in supporting people affected by Sexual Misconduct and/or Gender-based Violence, including Trauma-informed practice; and c. has undertaken training to build competency in working with specific cohorts including First Nations people, culturally and linguistically diverse communities, people with disability and people of diverse sexual orientation and gender identity.
Non-Disclosure Agreement	Means an agreement, including a deed of release or settlement agreement, that requires particular details to be kept confidential as part of reaching a settlement.
Non-Disparagement Clause	Means a clause in an agreement that requires the parties not to say things about each other that are critical, dismissive or disrespectful.
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

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Enquiries Contact	Human Resources Division

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