

Sexual Violence Policy



Responsibility for policy: Director of Student Services and Pastoral Care

Approving authority: Vice-Chancellor

Last reviewed: May 2022

Next review: June 2024

Application

1. This policy applies to all students and staff of the University of Waikato.

Scope

2. This policy applies to the conduct of students:
 - a. while they are enrolled as students of the University of Waikato
 - b. on any property or in any facility owned or managed by the University (including the halls of residence)
 - c. in the context of any University activity regardless of geographic location
 - d. where the conduct is related directly to the student's status as a student
 - e. where the conduct has harmed or has the potential to harm another member of the University community, or
 - f. where the conduct has harmed or has the potential to harm the reputation of the University.
3. This policy does not apply to a complaint by a student about the conduct of a staff member which must be made in accordance with the [Student Complaints Procedures](#).
4. This policy does not apply to a complaint by a staff member about the conduct of another staff member which must be made in accordance with the [Bullying and Harassment Policy](#).

Purpose

5. The purpose of this policy is to:
 - a. make explicit that the University of Waikato does not tolerate any form of sexual violence
 - b. promote an environment in which sexual violence is unacceptable and where individuals have the confidence to complain about such behaviour should it arise, in the knowledge that their concerns will be dealt with appropriately and fairly
 - c. to support students and staff to access help and support in a timely manner
 - d. make explicit the University's commitment to preventing sexual violence from occurring and to protecting the rights of all members of the University community to work, learn, study and participate in all aspects of the University in an environment of safety and respect
 - e. protect the safety and welfare of students disclosing or complaining about sexual violence, and
 - f. promote an environment where members of the University community are able to enact safe prosocial bystander intervention.

6. This policy is not to be interpreted, administered, or applied in such a way as to discourage or prevent any person from exercising their right to make a complaint of sexual violence to any external body, such as the Police.
7. The [Sexual Violence Procedures](#) set out the actions that the University will employ regarding sexual violence, which may include education, training and prevention programmes; the provision of support; reporting and complaints procedures; and fostering and promoting a culture of prosocial bystander intervention, consent and healthy relationships.

Related documents

8. The following documents set out further information relevant to this policy:
 - [Bullying and Harassment Policy](#)
 - [Child Protection Policy](#)
 - [Code of Student Conduct](#)
 - [Crimes Act 1961](#)
 - [Education \(Pastoral Care of Tertiary and International learners\) Code of Practice 2021](#)
 - [Health and Safety at Work Act 2015](#)
 - [Personal Information and Privacy Policy](#)
 - [Privacy Act 2020](#)
 - [Sexual Violence Procedures](#)
 - [Staff Code of Conduct](#)
 - [Student Complaints Procedures](#)
 - [Student Discipline Regulations](#)
 - [The University of Waikato Halls of Residence Rules and Regulations - Hamilton](#)
 - [The University of Waikato Selwyn Street Studios Halls of Residence Rules and Regulations](#)

Definitions

9. In this policy:
 - complainant** means a person who has made a complaint of an experience of sexual violence
 - complaint** means an allegation of sexual violence
 - consent** means the active, ongoing, informed, specific and freely given agreement in response to a request to engage in physical contact, sharing media or sexual activity. Consent cannot be given by someone who is coerced, incapacitated by drugs or alcohol or is so affected by drugs or alcohol that they cannot consent or refuse to consent to the activity. Consent cannot be given by someone who is unconscious, or otherwise unable to understand and voluntarily give consent
 - disclosure** means the sharing of an experience of sexual violence
 - hate crime/incident** means a crime or incident (e.g. sexual violence) motivated by prejudice toward a person's race, religion, sexual orientation, gender identity, disability or age
 - imminent risk of harm** means an immediate and impending threat of a person being at risk of harm or causing harm (physical, sexual, mental, emotional, spiritual, financial) to self or others
 - personal record of information** means documented information about an incident or incidents of sexual violence that is held by the student with experience of sexual

violence; a personal record of information does not initiate a complaint but it may be used by the person creating the record as evidence towards a complaint or make a criminal report at a future time

perpetrator means a person who has perpetrated sexual violence

power dynamic means the dynamic that exists within relationships due to the status given by society to different genders, races, classes, abilities, ages, and position within the workplace/education system/household. An imbalance of power is at the centre of instances of violence

prosocial bystander intervention means noticing when a person's behaviour, comments, jokes, and/or actions are harmful or inappropriate and choosing to intervene directly or indirectly

respondent means a person who has had a complaint of sexual violence made against them

sexual violence means sexual activity or behaviour that a person does not or cannot give consent to. Other terms used include sexual abuse, sexual harassment, sexual assault, sexual harm and harmful sexual behaviour. Some of the behaviours are:

- Any type of unwanted penetrative sex – vaginal, anal, oral, fingers/hands, objects. This is known as rape or unlawful sexual connection
- Any indecent exposure such as flashing or inappropriate display of the body
- Unwanted sexual touching, hugging, encroaching on someone's personal space or kissing or indecent assault
- Making an intimate video without consent
- Revenge pornography: Sharing sexual photographs, videos, rumours, or information online without consent
- Sharing sexual photographs, videos, rumours, or information online without consent
- Any unwanted sexually suggestive comments or jokes, gestures, insults or taunts of a sexual nature, or other forms of inappropriate language
- Any unwanted advances, repeated invitations to go out on dates, particularly if those invitations have previously been declined
- Repeated or inappropriate advances of a sexual nature on email or social networking websites
- Inappropriate staring or leering
- Using threats, force, intimidation or coercion to induce consent
- Being forced to carry out a sexual act or requests for sexual favours
- Intrusive questions or comments about a person's private life, clothing or physical appearance
- Any unwanted receipt of sexually explicit pictures, posters, gifts, emails or text messages
- Direct or indirect requests for sexual activity that contain an implied or express promise of preferential treatment or threat of detrimental treatment through the exploitation of a power dynamic
- Being forced to watch pornography
- Stalking

The behaviour may or may not be entwined with homophobia, biphobia, gender policing, transphobia, ableism, sexism and/or racism (see 'hate crime/incident' definition)

staff member means "worker" as set out in [section 19](#) of the [Health and Safety at Work Act 2015](#), including employees of the University, employees of a controlled entity of the University, Council members, contractors or consultants engaged by or working at the University, volunteers and any other person providing services to or at the University

student means a person enrolled at the University of Waikato. For the purpose of this policy, the period during which a student is deemed to be enrolled as a student is defined as

- i. the period in a given year from (inclusively) the Monday of the start week of the paper in the student's programme of study that starts earliest in that year, to the Sunday of the end week of the paper that ends last, and
- ii. any orientation period immediately prior to the start week of the student's programme of study in a given year, and
- iii. any period in which the student is a resident of University of Waikato student accommodation.

The processes for dealing with complaints of alleged sexual violence may extend beyond the periods defined in subsection (i), (ii) and (iii).

student with experience of sexual violence means a student who has been a victim/survivor of sexual violence or person who has committed harmful sexual behaviour, a prosocial bystander, whānau or friend of a victim or perpetrator

victim/survivor means a person who has had sexual violence perpetrated on them.

These terms are used interchangeably in this document. "Victim" acknowledges that those who experience sexual violence have been subjected to a crime. This is also a legal term; "Survivor" acknowledges that a person who has experienced sexual violence has begun healing and survived something that can be life altering. It is important to be aware that a person is not defined by the terminology used

university community means staff, students and visitors to the University of Waikato.

Principles

10. Sexual violence is prohibited at the University of Waikato and will not be tolerated.
11. Students of the University may be subject to disciplinary sanction or other appropriate action, in accordance with the [Code of Student Conduct](#) and [Student Discipline Regulations](#) in the event that they commit an act or acts of sexual violence.
12. The University recognises the agency of individuals with respect to addressing sexual violence; options include but are not limited to:
 - a. making a disclosure without making a complaint
 - b. making a complaint to the University
 - c. making a complaint to an external body.
13. All authority under this policy must be exercised in accordance with the principles of natural justice.

14. The University is committed to the ongoing support of students with experience of sexual violence; contact details for agencies able to provide assistance are set out in the [Sexual Violence Procedures](#).

Disclosures

15. A disclosure of sexual violence may be made to any member of the University community.
16. A person who receives a disclosure of sexual violence must ensure that the student making the disclosure is made aware of relevant support resources such as:
 - a. information about internal support services such as the Student Health Service,
 - b. information about external support services as set out in the [Sexual Violence Procedures](#), and
 - c. information about [Waikato Students' Union Student Support and Advocacy](#).
17. If a student who has made a disclosure does not wish to make a complaint they may choose to make a personal record of information to document the experience in order to assist in recalling details should a complaint be made at a later date.

Complaints

18. If a student who has made a disclosure wishes to make a complaint but is not willing or able to do so themselves, they may do so through a staff member making the complaint on behalf via MyWaikato.
19. A victim/survivor of sexual violence may refer a complaint to the Police if it appears that a crime may have been committed.
20. If the complaint is also under investigation by the Police or another authority the University may at its own discretion continue, stay or terminate its own investigation or any other proceedings related to the matter. Interim safety plan measures will be maintained.
21. A complainant has the right to subsequently withdraw a complaint at any time; regardless of whether a complaint is withdrawn, the University will continue to provide support.
22. The University may act at its own discretion in the absence of a complaint or if a complaint is withdrawn once it is made aware of alleged sexual violence; the University may report the matter to the Police in circumstances of imminent risk of harm to an individual or public safety.
23. A complaint of sexual violence found to be malicious or vexatious or untrue may be considered a breach of the [Code of Student Conduct](#); a lack of sufficient evidence to result in the imposition of sanctions does not imply that a complaint is malicious or vexatious or untrue.
24. A disclosure or complaint will be considered to be malicious or vexatious or untrue if a person makes it knowing it to be false.
25. The University will not tolerate any retaliation or the threat of retaliation against any person on account of a disclosure or complaint of sexual violence or on account of evidence or assistance given with respect to a disclosure or complaint of sexual violence; such action is considered to be a serious offence and may constitute grounds for disciplinary action.

Interim safety measures

26. The Vice-Chancellor may put in place appropriate interim measures and make appropriate accommodations to protect against possible harm to the complainant or to the respondent while the complaint is investigated, and to support, where possible, the continued living or learning needs of all parties until such time as a complaint has been resolved.
27. Interim measures may include but are not limited to suspension:
 - a. from any University building, premises grounds or University of Waikato student accommodation
 - b. from any class
 - c. from any event organised by the University
 - d. from use of any resource of the University.
28. When considering any interim measures, the Vice-Chancellor shall take into account the following:
 - a. the best interest of the students, staff and other members of the University community
 - b. the physical safety of the students, staff and other members of the University community
 - c. the orderly conduct of teaching, research and administration of the University
 - d. the protection of the property or resources of the University
 - e. any other matters raised by the complainant and respondent
 - f. any other matters the Vice-Chancellor considers appropriate in the circumstances.
29. Compliance with interim measures by a respondent is not to be viewed as an admission of the alleged sexual violence.

Limitations

30. While all reasonable steps will be taken to support a student who has made a disclosure or complaint of sexual violence, the University of Waikato does not have jurisdiction to provide sanctions in situations where sexual violence is perpetrated by a person who is not a staff member or student or where the incident is outside of the enrolment period of the student at the University of Waikato.

Confidentiality and privacy

31. Staff are reminded of their responsibilities under the [Personal Information and Privacy Policy](#).
32. A disclosure or complaint of sexual violence must be treated in confidence unless:
 - a. the person who receives a disclosure of sexual violence believes any party is at serious risk of harming themselves or others
 - b. there is a legal obligation to report a disclosure to authorities (for example where the sexual violence was committed against a child)
 - c. staff require information to carry out their responsibilities in relation to the imposition of interim measures
 - d. a complaint is made under the [Student Discipline Regulations](#) and the relevant authority requires all available information to undertake their duties as part of a disciplinary process.

33. The Student Health Service will maintain appropriate records of disclosures of sexual violence made through the Service through the Practice Management System.
34. Disclosures will be coded to provide for anonymity and allow data to be collected for the purpose of observing trends to develop and implement appropriate responses to sexual violence.
35. Information in the Practice Management System will be restricted to authorised Student Health Service staff with access to the Practice Management System.
36. The Halls of Residence will maintain appropriate records of disclosures and complaints of sexual violence made to Halls staff through the use of Incident Reports that are kept in their database, StarRez. Halls of Residence staff are to advise the person who discloses, of this process at all times.
37. The Violence Prevention Coordinator will work with key groups throughout the University to ensure safe data collection regarding disclosures of sexual violence.

Responsibilities

38. The Violence Prevention Coordinator is responsible for:
 - a. supporting the development of procedures to guide the handling of disclosures and complaints of sexual violence
 - b. the provision of training to staff and students who have responsibility for applying procedures related to the prevention, disclosure and complaint of cases of sexual violence, and
 - c. the provision of educational programs and initiatives designed to cultivate a safe living and learning environment free from sexual violence and to bring awareness of this policy and the related procedures to the University community.

Responsibility for monitoring compliance

39. The Director of Student Services and Pastoral Care is responsible for monitoring compliance with this policy and reporting any breaches to the Vice-Chancellor.
40. Breaches of this policy by staff may result in disciplinary action under the [Staff Code of Conduct](#).
41. Breaches of this policy by students may result in disciplinary action under the [Code of Student Conduct](#).