

SEXUAL MISCONDUCT AND SEXUAL HARASSMENT POLICY

1. PURPOSE

The purpose of this Policy is to:

- a. Protect the safety and welfare of USU members, staff and guests;
- b. Provide guidance to USU staff and affiliated student groups on the process to be followed when a member, staff member or guest makes a report or Complaint of sexual misconduct or sexual harassment.

2. SCOPE

1. This Policy applies to all reports of sexual misconduct and sexual harassment by USU members, staff members and guests that relate to activities run by the USU and its affiliated student groups, including:
 - a. Reports about conduct by other USU members, affiliated student groups and staff;
 - b. Reports about conduct that occurred at a program, space, event or function; and
 - c. Anonymous reports.
2. This Policy applies to all USU members, affiliated student groups and staff members.

DEFINITIONS

Word/Term	Definition
active bystander intervention	means seeing and recognising a potentially harmful situation and choosing to respond in a safe and reasonable way that could prevent or stop the harm from happening or continuing.
affiliated student group	includes but is not limited to a USU registered club or society, a USU volunteer group, a USU revue or a USU debates team.
Apprehended Personal Violence Order	means an ADVO (Apprehended Domestic Violence Order) or an APVO (Apprehended Personal Violence Order) made by a court.
Complainant	means any person who makes a report or Complaint of sexual misconduct or sexual harassment to the USU.
Complaint	means as defined in the USU's Complaints and Discipline Procedure (Student Groups) 2021 regarding a report of sexual misconduct or sexual harassment made by a complainant who wants the USU or the University to investigate and to take action taken in response to the incident.

Constitution	means the Constitution of the University of Sydney Union .
disclosure	means a report of sexual misconduct or sexual harassment made by a complainant who does not want the USU or the University to investigate or to take any other action taken in response to the incident.
guest	means a member of the public who is visiting a USU space, or attending an activity, event or function, or participating in a program, run by USU or an affiliated student group.
Head of Department	means: <ul style="list-style-type: none"> • the Head of Department of Programs; • the Head of Department of People and Culture; or any other Head of Department nominated by the CEO to perform functions in accordance with this policy.
member	means a person who is a current student and a registered member of the USU.
program	includes but is not limited to INCUBATE, activities and events run by affiliated student groups, and activities and events run by the USU.
report	means a disclosure or Complaint of sexual misconduct or sexual harassment.
Respondent	means a person whose conduct is the subject of a report of sexual misconduct or sexual harassment.
sexual misconduct	has the meaning given by the University's Student Sexual Misconduct Policy 2018 .
sexual harassment	has the meaning given by the University's Student Sexual Misconduct Policy 2018 .
space	has the meaning given in the USU <i>Space Allocation Policy</i> .
staff or staff member	means USU employees, contractors, outworkers, apprentices, work experience students and volunteers.
student	has the meaning given by the University's Student Sexual Misconduct Policy 2018 .
University	means the University of Sydney.
USU	means the University of Sydney Union.

SECTION 1 - POLICY

PRINCIPLES

The USU is committed to celebrating and harnessing the diversity of ideas and backgrounds in our communities and to creating an environment of involvement, respect and inclusion for everyone. This commitment is central to the USU's Strategic Plan 2017- 2020.

1. Accordingly, the USU requires all students who engage with its programs, events, spaces and services to conduct themselves in accordance with this Policy and with the University of Sydney's [Student Charter 2020](#) and [Student Sexual Misconduct Policy 2018](#).

1.	Prohibition of sexual misconduct and sexual harassment
1.1	The USU does not tolerate any unlawful conduct, including sexual misconduct and sexual harassment. Behaviour that is intimidating, abusive, disrespectful or threatening, including sexual misconduct and sexual harassment is prohibited.

		Responsibility
2 – Emergency Contacts		
2.1	USU members, staff members and guests who have experienced sexual misconduct or sexual harassment are encouraged to seek assistance and support from a trusted member of the USU staff.	All
2.2	In an emergency, USU members, staff members and guests should contact emergency services by dialling triple zero (000) .	All
2.3	USU members, staff members and guests who feel unsafe on campus or are concerned about someone else’s safety can also contact Campus Security on 9351 3333 , 24 hours a day.	All
2.4	USU members staff members and guests who have experienced sexual misconduct can contact: <ul style="list-style-type: none"> • NSW Rape Crisis Service on 1800 424 017, 24 hours a day; • 1800RESPECT on 1800 737 732 or on online via www.1800respect.org.au, 24 hours a day; • Royal Prince Alfred (RPA) Hospital Sexual Misconduct Service on 9515 9040 (Monday to Friday) or 9515 6111 (after hours). Counselling and medial services are available to anyone who has been sexually misconducted. Campus security can arrange transport to RPA. 	All
3. USU response to reports of sexual misconduct and sexual harassment		
3.1	Subject to clause 6., the USU will forward all reports of sexual misconduct or sexual harassment to the University for handling in accordance with its Student Sexual Misconduct Policy 2018 and Student Sexual Misconduct Response Procedures 2018 .	Programs

3.2	Any Complaint or report of sexual misconduct or sexual harassment will be dealt with in accordance with the procedures set out in the USU's Complaints and Discipline Policy (Student Groups)	All
3.3	<p>The USU will support and facilitate the University's handling of Complaints and reports of sexual misconduct and sexual harassment by:</p> <ul style="list-style-type: none"> a. encouraging complainants to report sexual misconduct and sexual harassment to the University via its online reporting portal; b. referring complainants and respondents to the University's support services; implementing interim measures, as appropriate; c. implementing recommendations and findings from University investigations, as appropriate. 	All
3.4	<p>The USU may take disciplinary action against any USU member or staff member who is found guilty of sexual misconduct or sexual harassment, following an investigation conducted in accordance with the principles of procedural fairness as determined by the USU:</p> <ul style="list-style-type: none"> a. In the case of USU workers, disciplinary action will follow the relevant employee policies. b. Matters concerning contractors will be referred to their employer. c. Members may be subject to disciplinary action outlined in the Complaints and Discipline Procedure (Student Groups) or any other appropriate disciplinary action as determined appropriate by the USU at its absolute discretion <p>Note: In accordance with clause 9.2 of the Constitution, the USU Board may expel a member from membership of the USU, if in the opinion of the Board the member is guilty of misconduct.</p>	All

4. Temporary removal of members		
4.1	The leader of an affiliated student group may require a member to temporarily leave a space, event or function, or discontinue a member's involvement in a program, where, in the reasonable opinion of the leader, the temporary removal of the member is necessary to: <ul style="list-style-type: none"> a. protect the health and safety of another member, staff member or guest; b. protect the health and safety of the member; c. prevent serious damage to property; or d. prevent serious disruption to an event, function or program. 	C+S
4.2	A leader of an affiliated student group who has exercised their power in accordance with clause 4.1 must report the student's removal and the circumstances of the removal to a Head of Department within 12 hours of the removal, or such other time that is reasonable in the circumstances.	C+S
5. Interim Measures		
5.1	Interim measures should not be interpreted as anticipating or revealing the outcome of any USU, University or criminal investigation process.	All
5.2	In order to minimise the potential for harm to any person, a Head of Department may take interim measures against a USU member or staff member in response to: <ul style="list-style-type: none"> a. a report or Complaint of sexual misconduct or sexual harassment to the USU; b. notification by the University of a report of sexual misconduct or sexual harassment under the University's <u>Student Sexual Misconduct Policy 2018</u>; c. an Apprehended Personal Violence Order, whether interim or final. 	HODs

<p>5.3</p>	<p>As an interim measure, the Head of Department may take any of the following actions:</p> <ul style="list-style-type: none"> a. remove a member from a position of authority within an affiliated student group; b. suspend a member from membership of an affiliated student group; c. suspend a member or staff member from entering or participating in a USU program, space, event or function; or d. prohibit a member or staff member from speaking to or approaching another USU member, staff member or guest (including by social media, email, letter or through a third party). <p>The above list is not exhaustive, and the USU may at its discretion determine any interim measures as consider appropriate given the relevant circumstances.</p>	<p>HODs</p>
<p>5.4</p>	<p>Interim measures must be:</p> <ul style="list-style-type: none"> a. taken on a case-by-case basis; b. set for a fixed period of time; and c. reasonable and proportionate; <p>having regard to the seriousness and circumstances of the alleged conduct.</p>	<p>HODs</p>
<p>5.5</p>	<p>Interim measures may be taken summarily, and the Head of Department:</p> <ul style="list-style-type: none"> a. is not required to provide a hearing to the USU member or staff member before making a decision; and b. may inform themselves in relation to any matter in any manner that they think fit. 	<p>HODs</p>
<p>5.6</p>	<p>Interim measures once taken will continue to apply until they:</p> <ul style="list-style-type: none"> a. are revoked or varied by the Head of Department or the CEO; or b. expire in accordance with their terms. 	<p>HODs/CEO</p>

5.7	If the Head of Department imposes interim measures against a USU member or staff member, they must provide the USU member or staff member a written notice within 24 hours: <ul style="list-style-type: none"> a. specifying the terms of the interim measures; b. specifying the period of the interim measures; c. summarising the reasons for the interim measures; and d. providing a copy of, or an electronic link to, this Policy. 	HODs
5.8	A USU member or staff member who is the subject of interim measures may seek an internal review of those measures by application in writing to the CEO within 20 working days of the date on which written notice of the interim measures was provided.	CEO
5.9	Applications for internal review will be considered by the CEO.	CEO
5.10	Any internal review will be: <ul style="list-style-type: none"> a. conducted on the basis of the written material; and b. limited to a review of the term, period and reasons for taking the interim measures. 	CEO
5.11	Where reasonable, the CEO will review the interim measures within 20 working days of the application for review.	CEO
5.12	Where 20 days is not reasonable, the CEO will advise the USU member or staff member of the reasons for the delay, and the projected timeframe for completion of the internal review.	CEO
5.13	At the conclusion of the internal review, the CEO will: <ul style="list-style-type: none"> a. provide the USU member or staff member with a written statement of the outcome of the review, including reasons; and b. provide a copy of the written statement to the President of the USU Board. 	CEO
5.14	The President may provide a copy of the written statement to the USU Board for further review. A decision of the Board is final.	President Board

6. Confidentiality		
6.1	Except as provided in clause 6.2, the USU will keep confidential all information relating to a report or Complaint of sexual misconduct, unless the Complainant consents to disclosure of part or all of the information for a specified purpose.	All
6.2	If a Complainant decides not to report an incident of sexual misconduct to the Police, the USU will use its best efforts to protect the confidentiality of information relating to the report, while meeting its obligations under the <i>Crimes Act 1900</i> (NSW). Note: The USU is required to report information about the commission of a 'serious indictable offence' to the Police in accordance with sections 316 and 316A of the <i>Crimes Act 1900</i> (NSW).	All
6.3	In some limited circumstances, the USU may need to report an incident of sexual misconduct to the Police against a person's wishes, to ensure their safety or the safety of other USU members, staff members or guests, or to meet its legal obligations.	All
6.4	The USU will endeavor to maintain confidentiality of any Complaint to the extent practical and appropriate in each case. In some circumstances, it may not be possible to keep the Complaint, report, information or incident confidential, such as where physical threats are involved or the law otherwise requires it to be disclosed by the US.	All
6.5	The USU reserves the right to provide all information provided by a Complainant to any third party, external investigator or authority as the USU considers necessary for the USU, including to investigate any Complaint or report made under this Policy and the USU will not require specific consent from the Complainant to do so.	All

7. No Victimisation		
7.1	<p>A USU member or staff member must not victimise or otherwise subject another person to detrimental action as a consequence of that person:</p> <ol style="list-style-type: none"> a. making a report or Complaint of sexual misconduct or sexual harassment; b. providing information about a report or Complaint of sexual misconduct or sexual harassment; c. supporting a person who has made a report or Complaint of sexual misconduct or sexual harassment; or d. engaging in reasonable and safe active bystander intervention. <p>The USU may take disciplinary action against any USU member or staff member who breaches this clause.</p>	All
8 – Active Bystander Intervention		
8.1	The USU encourages and values reasonable and safe active bystander intervention by USU members and staff members to prevent or stop sexual misconduct and sexual harassment from occurring or continuing.	All
8.2	<p>The steps involved in safe active bystander intervention are:</p> <ol style="list-style-type: none"> a. noticing the situation – paying attention to what is going on nearby; b. deciding if it is a problem – investigating whether someone might need help, and checking with people around if unsure; c. accepting responsibility to take action – not assuming that someone else will do something; d. making a plan to step in – indirectly or directly confronting the issue, without being aggressive or putting oneself or other in danger. 	All

9 – Absolute Discretion of the USU under this Policy	
<p>This Policy and the process set out within are not mandatory on the USU, and the USU at its absolute discretion may decide to treat any matter in a certain way based on the individual circumstances of each matter considered on a case by case basis.</p> <p>There may be some circumstances where the USU determines it would be inappropriate to strictly follow the processes set out in this Policy and in such cases the USU will use best endeavors deal with the matter and consider the interests of all parties involved in order to resolve the matter.</p>	All
10 – Inconsistencies with this Policy	
<p>In the event there is any inconsistency between this Policy and any policy of the University, including the Student Sexual Misconduct Policy 2018 then the terms of the University’s policy are to prevail.</p>	All

Acknowledgement:

I have read, understand and agree to comply with this Policy:

Print Name	Signature	Date

SECTION 2 - GOVERNANCE

RESPONSIBILITY

Policy Owner	Student Programs
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APPROVALS PROCESS

A new USU Policy and amendments to an existing USU policy must be submitted to Board as a Motion on Notice after being subjected to the following procedure:

Draft Policy > P&C HOD > Programs HOD > Governance Committee > Board

All amendments suggested after the submission of the motion shall be noted and submitted to the above procedure before being approved.

RECORD OF APPROVALS

Entity	Approval Date	Name	Notes
P&C HOD			
Programs HOD	21 June 2019	JT	
Governance Committee			
Board	21 June 2019		
Version Number	Amendment Date	Approved by	Amendment
1	15 Feb 2021	RA	Update 'assault' to 'misconduct'
2	28 Oct 2022		