

Sexual Harassment Prevention Policy

INTRODUCTION

The University is committed to providing a safe and respectful working and learning environment that supports the rights of all persons within the University community to work and study in a safe environment, free from sexual harassment.

Sexual harassment is any unwanted, unwelcome or uninvited behaviour or conduct of a sexual nature, which makes a person feel offended, humiliated and/or intimidated, where that reaction is reasonable in the circumstances. Unwelcome and unacceptable behaviour of a sexual nature towards a member of the University community which may be detrimental to their employment, education, accommodation or provision of goods and services and facilities is unlawful under the relevant state/territory legislation and the Commonwealth [Sex Discrimination Act 1984](#).

The University will take all reasonable steps to minimise the risk of discrimination and harassment occurring. Appropriate disciplinary action will be taken against any staff member or student who engages in such behaviour.

STATEMENT OF AUTHORITY

The authority behind this policy is the [Charles Darwin University Act 2003](#) part 3, section 15.

COMPLIANCE

This is a compliance requirement under the [Sex Discrimination Act 1984](#) and [Work Health and Safety \(National Uniform Legislation\) Act 2011](#).

INTENT

This document defines what constitutes sexual harassment and/or assault and provides a framework of measures to prevent and respond to sexual harassment. It applies to all members of the University community whilst on campus or participating in a University activity elsewhere.

RELEVANT DEFINITIONS

In the context of this document

Procedural fairness also known as natural justice means the basic principles considered central to fair decision making and which can be summarised as follows:

- The opportunity for all parties to be heard;
- The respondent having full knowledge of the nature and substance of the allegation;
- The right to an independent, unbiased decision maker; and
- A decision based solely on evidence provided.

Sexual assault means a sexual activity without explicit consent. Sexual assault is the attempted or actual sexual contact performed without the active, verbal consent and positive physical cooperation of another individual;

Sexual harassment means any unwanted, unwelcome or uninvited behaviour or conduct of a sexual nature, which makes a person feel offended, humiliated and/or intimidated, where that reaction is reasonable in the circumstances;

Staff member means anyone employed by the University and includes all continuing, fixed-term, casual, adjunct or honorary staff or those holding University offices or who are a member of a University committee;

Student means a person prescribed as a student of the University in By-law 2 of the [Charles Darwin University \(Student of the University\) By-laws](#);

Student conduct means the expected standards of student behaviour and conduct, as contained in the [Charles Darwin University \(Student Residences\) By-laws](#);

University activity means staff member or student involvement with, engagement in or representation on behalf of the University in any physical or virtual activity, field trip, conference, game, competition, practicum or clinical placement, event or function, including club or entity affiliated or associated with the University;

University community means officials and individuals carrying out University business. This includes, but is not limited to, all staff members, researchers, peer reviewers, students, volunteers, consultants, agents and contractors;

University residence means any hall of residence or accommodation facility established or provided by the University from time to time;

Unwelcome conduct means conduct that was not solicited or invited by the person who was harassed, and the person harassed regarded the conduct as undesirable or offensive; and

Victimisation means punishing or threatening to punish someone. It is against the law to punish or threaten to punish someone for reasonably asserting their rights, or supporting someone else's rights to make, support or resolve a complaint, whether that participation was actual, intended or presumed.

POLICY

Principles

The University's commitment to providing a safe and respectful working and learning environment that supports the rights of all persons within the University community is underpinned by the following principles.

The University will:

- Foster a working and learning environment that is free from sexual harassment and where all members of the University community are treated with dignity, courtesy and respect;
- Implement sexual harassment training and awareness raising strategies to ensure that all staff members and students know their rights and responsibilities, including the penalties for those staff

members or students who fail to take appropriate action to prevent sexual harassment occurrence or continuation;

- Maintain effective complaint procedures based on the principles of procedural fairness;
- Treat all sexual harassment complaints in a sensitive, fair, timely and confidential manner;
- Protect the health and wellbeing of complainants by ensuring any acts of victimisation or retaliation are investigated and dealt with promptly;
- Promote appropriate standards of conduct at all times in accordance with the University's [Code of Conduct](#); and
- Encourage the reporting of behaviour that breaches this Policy.

What is sexual harassment

Sexual harassment is defined in the [Sex Discrimination Act](#) as an unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature, which, in the circumstances, a reasonable person would anticipate the possibility that the recipient would feel offended, humiliated or intimidated.

Sexual harassment can take various forms and may be obvious or indirect, physical or verbal. It also includes behaviour and conduct which create a sexually hostile or intimidating environment. Sexual harassment may include:

- Staring or leering;
- Unnecessary familiarity, such as deliberately brushing up against a person or unwelcome touching;
- Suggestive comments or jokes;
- Insults or taunts of a sexual nature;
- Intrusive questions or statements about your private life;
- Displaying posters, magazines or screen savers of a sexual nature;
- Sending sexually explicit emails or text messages;
- Inappropriate advances on social networking sites;
- Accessing sexually explicit internet sites;
- Requests for sex or repeated unwanted requests to go out on dates; and
- Behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Sexual harassment does not have to be repeated or continuous to be against the law. Some actions or remarks are so offensive that they constitute sexual harassment in themselves, even if they are not repeated. Other single incidents, such as an unwanted invitation or compliment, may not be harassment if they are not repeated.

Sexual harassment is unlawful even if the person who harassed has no sexual interest in the person being harassed. Conduct may constitute sexual harassment even if the parties involved are of the same sex and regardless of their sexual preference.

Sexual harassment can occur in any work-related or educational context, at a University campus, residence or facility, be it owned or leased; University event, function or activity; while using University equipment be it owned or leased such as communications technologies, vehicles or facilities; participating in any activity as a representative or student of the University such as field trips, inter-University events, conferences, practicums or clinical placements; as well as carrying out functions in connection with the University, including at places that are external to University premises such as a hotel, a private residence or in the street.

What is reasonable

The law further defines sexual harassment as unwelcome sexual behaviour or conduct that a reasonable person would anticipate the possibility in the circumstances that the other party would be offended, humiliated and/or intimidated.

Circumstances to be taken into account also depend on factors such as: sex, age, sexual orientation, gender identity, intersex status, marital or relationship status, religious belief, race, colour or national or ethnic origin; whether any physical or other impairment and the nature of the relationship between the people involved.

What is not sexual harassment

Sexual harassment has nothing to do with mutual attraction, friendship or respect. Where sexual interaction, flirtation, attraction or friendship is invited, mutual, consensual or reciprocated, it is not considered to be unwelcome and is **NOT** sexual harassment.

It is not unlawful to commence a personal relationship with a colleague or a student (provided the student has reached the age of consent) as long as both parties are consenting. A consensual sexual relationship however, does not preclude the possibility of sexual harassment following the end of a relationship.

Sexual assault

If sexual harassment includes behaviour that causes humiliation, pain, fear or intimidation, it can also amount to sexual assault. Some forms of sexual harassment, such as rape, assault of a sexual nature, acts of gross indecency and sexual intercourse without consent, indecent exposure, stalking or unlawful observations and recordings in breach of privacy or obscene communications are also criminal offences and should be reported to the Police.

Complaint resolution

All members of the University community share the responsibility for appropriate conduct and maintaining a safe working and learning environment free from sexual harassment. The University strongly encourages members of the University community to report personal or witnessed incidences of sexual harassment to the [Complaints Management Unit](#). The University will, as far as is practicable, protect any person making a sexual harassment complaint against victimisation and reprisals.

All complaints of sexual harassment will be treated seriously, investigated promptly, impartially and confidentially. Sexual assault is a crime and should be reported to the Police. Referral of a case to the Police does not preclude the University from dealing with the matter through its internal disciplinary procedures.

Sexual harassment complaints can also be made to the relevant external organisation:

- Anti-Discrimination Commissioner – NT/QLD/NSW
- Equal Opportunity Commissioner – TAS/VIC/WA
- Human Rights Commissioner – ACT
- Australian Human Rights Commissioner
- Fair Work Australia Ombudsman

Support services

The University provides professional counsellors registered through the Australian Health Practitioner Registration Authority (AHPRA). Support is also available through external sources including online counselling services.

CDU Counselling Service

T: 08 8946 6288

T: 1300 933 393 A/Hours

E: counselling@cdu.edu.au

Ruby Gaea Darwin

T: 08 8945 0155

W: rubygaea.net.au

1800Respect

T: 1800 737 732

W: 1800respect.org.au/

ESSENTIAL SUPPORTING INFORMATION

Internal

[Charles Darwin University and Union Enterprise Agreement](#)

[Charles Darwin University \(Student Conduct\) By-laws](#)

[Charles Darwin University \(Student of the University\) By-laws](#)

[Charles Darwin University \(Student Residences\) By-laws](#)

[Code of Conduct](#)

[Student Residences Code of Conduct](#)

[Student Residences Misconduct Procedures](#)

[Work Health and Safety Policy](#)

External

[Anti-Discrimination Act 1991](#) (Qld)

[Anti-Discrimination Act 1977](#) (NSW)

[Anti-Discrimination Act 1996](#) (NT)

[Anti-Discrimination Act 1998](#) (TAS)

[Australian Human Rights Commission Act 1986](#) (Commonwealth)

[Discrimination Act 1991](#) (ACT)

[Equal Opportunity Act 1984](#) (SA)

[Equal Opportunity Act 2010](#) (VIC)

[Equal Opportunity Act 1984](#) (WA)

[Fair Work Act 2009](#) (Commonwealth)

[Occupational Health and Safety Act 1984](#) (WA)

[Occupational Health and Safety Act 2004](#) (VIC)

[Occupational Health and Safety Amendment \(Employee Protection\) Act 2009](#) (VIC)

[Sex Discrimination Act 1984](#) (Commonwealth)

[Work Health and Safety \(National Uniform Legislation\) Act 2011](#) (NT)

[Work Health and Safety \(National Uniform Legislation\) Regulations 2011](#) (NT)

[Work Health and Safety Act 2011](#) (ACT)

[Work Health and Safety Act 2011](#) (NSW)

[Work Health and Safety Act 2011](#) (Qld)

[Work Health and Safety Regulation 2011](#) (Qld)

[Work Health and Safety Act 2012](#) (SA)

[Work Health and Safety Act 2012](#) (TAS)

Document History and Version Control

Last amendment:	15 Dec 2017	Next Review:	Sept 2019
Sponsor:	Pro Vice-Chancellor, Education and Student Success		
Contact Officer:	Director, Student Administration		

Version	Date Approved	Approved by	Brief Description
1.00	14 Sept 2016	Vice-Chancellor	Creation of original document and upload to CDU website.
1.01	15 Dec 2017	Governance	<ul style="list-style-type: none"> • Conversion to new Governance template due to new University branding • Updated definitions • Updated hyperlinks • Amended Director, Student Administration and Equity Services to Director, Student Administration