



SEXUAL HARASSMENT GUIDELINES– STUDENTS/STAFF

These guidelines emphasise conciliation and confidentiality and emphasise the responsibility of the University to work towards the elimination of sexual harassment and the prompt effective resolution of complaints.

Charles Darwin University is committed to promoting an environment which supports productivity and the self-esteem, personal work and study goals of its students and employees. Such an environment is likely to be undermined by personal harassment and victimisation. Sexual harassment deserves particular attention because it is difficult for parties to discuss and resolve because of its sensitive and personal nature.

The effect of sexual harassment on an individual on campus can present particular problems where individuals cannot choose to leave without cost to their education. The harassment may come from an individual who wields real or perceived power over the complainant.

The consequences of sexual harassment on campus range from actual or potential disadvantage to individuals' opportunities in education and in employment to lack of self-esteem or confidence in carrying out tasks and to adverse effects on learning and productivity. Sexual harassment may also create an intimidating, hostile environment where people other than the victim may suffer.

There may be sexual harassment between staff and students and between student and student. In the case of a staff member harassing a student, the University is obligated under the Commonwealth Sex Discrimination Act 1984, Section 29 to protect its students from sexual harassment.

In the case of sexual harassment between students, all steps should be taken to resolve the matter through Support and Equity Services. Students may also take their complaint to either the Human Rights and Equal Opportunity Commission or the Northern Territory Anti-discrimination Commission.

In the case of sexual harassment of a staff member by a student, all steps should be taken to resolve the matter through informal conciliation before resorting to the formal Student Conduct By-Laws.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is one form of discrimination. Discrimination generally operates in an environment where the balance of power is unequal and occurs when power is improperly exercised to the detriment of a person or group of people. Sexual harassment is discriminatory because it results in some people being treated less favourably than others.

Sexual harassment covers any unwelcome, unsolicited and non-reciprocated behaviour which constitutes deliberate or unintentional verbal or physical conduct of a sexual nature. It may be an isolated incident or a series of incidents. The distress caused by sexual harassment may be the same whether the conduct was intentional or unintentional. Although the majority of sexual harassment complaints come from women, it is not confined to any gender or sexual preference.

Sexual harassment constitutes improper conduct and may require the Director Support and Equity Services, in the case of students, or the Vice-Chancellor, in the case of staff, to initiate formal disciplinary action against the respondent.

WAYS IN WHICH SEXUAL HARASSMENT CAN OCCUR

Sexual harassment can occur in a number of ways such as:

where a person uses implicit or explicit coercive sexual behaviour to control, influence or affect the study program or career of another person over whom he or she is seen as exerting authority;

where students and staff submit a student to humiliation or offensive behaviour of a sexual nature on the basis of the person's sex or sexual preference;

where requests for sexual favours are accompanied by implied or overt promises for preferential treatment or threats concerning an individual's status.

Sexual harassment may include a wide range of behaviour of a sexual nature which causes a student or staff member distress. The following are some of the forms of behaviour that constitute sexual harassment:

- offensive hand or body gestures;
- sexy or smutty jokes;
- provocative pictures with a sexual connotation;
- personally offensive verbal comments;
- implicit or explicit demands for sexual activities;
- comments or teasing about a person's alleged sexual activities

- or private life;
- physical contact such as patting, pinching or touching;
- obscene phone calls;
- being followed home from work;
- persistent unwelcome social invitations;
- aggravated sexual assault and rape. (A criminal Offence)

Sexual harassment may occur by an individual or by actions of a group.

Forms of sexual harassment which are commonly thought mild or trivial can be personally offensive, particularly in staff/ student relationships where the formal nature of the relationship involves authority of one over another.

Sexual harassment does not arise in the context of mutually acceptable behaviour or personal relationships based on choice and consent. Furthermore, it would be unfortunate if staff and students were to be inhibited from developing close and professionally appropriate relationships through fear that their behaviour will be misconstrued as sexual harassment.

The University is concerned where sexual harassment:

becomes a condition of a person's selection into courses or admission to the university; or

becomes a term or condition for a decision which bears favourably on the academic evaluation of a person; or

interferes with an individual's performance; or

creates an intimidating, hostile or offensive learning or working environment.

ROLE OF THE UNIVERSITY

The University does not have the right to intrude into personal relationships freely entered into by staff or students, but it does have a responsibility to ensure that proper standards of conduct are maintained at all times. The University has a proper concern where the behaviour of individuals:

creates an intimidating, hostile, offensive or distressing work or learning environment;

adversely affects an individual's prospects for educational fulfilment, employment or promotion; or other work-related benefits;

adversely affects the study or work performance of individuals or groups of staff or students;

undermines student or staff morale or causes distress through, for example, the display of offensive material including material on a computer screen;

leads to physical or emotional stress, which may force a student to miss classes to cope with the behaviour or to seek transfer or withdrawal;

reflects adversely on the integrity and standing of the University as seen by members of the public or by staff/students.

Failure by the University to seriously deal with complaints of sexual harassment or to take prompt, effective or remedial action to deal with complaints can be seen as condoning or tolerating such behaviour. Managers/supervisors should also not wait for a complaint to be made before intervening, if they are aware that sexual harassment is suspected.

The University has certain legal responsibilities under the Commonwealth Sexual Discrimination Act 1984.

The University should ensure that staff are advised of their role in the University's strategy on sexual harassment and where necessary initiate training.

Staff and students who become aware of harassment by individuals should be encouraged to bring it to the attention of the University. Such conduct is not purely a personal matter between individuals; it may affect other staff and students as well as productivity and working relationships.

The University should ensure that staff and students are informed of all options available and respect and support the right of complainants to pursue whichever option they choose.

OPTIONS FOR RESOLVING GRIEVANCES

There are three processes under which sexual harassment can be resolved.

The internal informal process can involve the assistance of Support and Equity Services staff. The aim of the internal informal process is to stop the behaviour in a prompt and confidential manner through conciliation or mediation.

If the grievance cannot to be resolved by conciliation, the Conciliator should advise the complainant that the grievance may be dealt with through the appropriate formal grievance process. The aim of the formal process is to allow the complainant to seek a more formal resolution.

The external procedure involves contacting the Human Rights and Equal Opportunity Commission, the NT Anti Discrimination Commission, police, or lawyers (at own cost). The aim is to allow the complainant to seek external resolution of the complaint by Government agency or legal process.

For further information please contact Support and Equity Services