

## UTS Insearch (Student) Sexual Assault and Harassment Response Procedure

### PROCEDURE PURPOSE

This Procedure sets out how UTS Insearch will work to prevent sexual assault and harassment and how disclosures or complaints of sexual assault or harassment by a student will be responded to. This includes:

- Preventing sexual assault and harassment,
- Receiving and responding to disclosures and complaints of sexual assault and harassment,
- Ensuring the safety of complainants and their supporters, and
- UTS Insearch actions when an incident of sexual assault or harassment has been confirmed.

### SCOPE

This procedure is to be adhered to by all UTS Insearch staff and Students.

**DEFINITIONS** are set out at the end of this procedure.

### PROCEDURE STEPS

Activity	Description	Responsible
<b>PREVENTING SEXUAL ASSAULT AND HARASSMENT</b>		
Prevention Activities	<p>1. UTS Insearch will develop an Annual Plan of Prevention Activities</p> <p>1.1 With Staff, Students and key stakeholders UTS Insearch will prepare an annual plan of co-ordinated, complimentary and consecutive activities that target inequality, the drivers of inequality and the resulting attitudes and behaviours that create the social norms and practices that allow sexual assault and harassment to occur. In developing the annual plan participants will understand:</p> <ul style="list-style-type: none"> <li>• <b>The National Our Watch Change the Story Framework</b>  <a href="https://www.ourwatch.org.au/change-the-story/">https://www.ourwatch.org.au/change-the-story/</a></li> <li>• The prevention principles stated in 1.1 of the UTS</li> </ul>	Student Welfare Team Leader

	<p>Insearch (Student) Sexual Assault and Harassment Policy, and</p> <ul style="list-style-type: none"> <li>The National Standards for the Primary Prevention of Sexual Assault through Education.</li> </ul> <p>1.2 The plan will detail:</p> <ul style="list-style-type: none"> <li>a series of activities and evidenced based training that is consistent in messaging and builds participant skills,</li> <li>review practices, KPIs, and outcome measures, and</li> <li>resources required to implement the plan.</li> </ul> <p>1.3 An annual report will be prepared detailing actions, outcomes and recommendations for the following years plan. In keeping with point 1.3 of the UTS Insearch (Student) Sexual Assault and Harassment Policy, this report will be widely distributed.</p>	<p>Student Welfare Team Leader</p>
<b>RESPONDING TO DISCLOSURES AND COMPLAINTS OF SEXUAL ASSAULT AND HARASSMENT</b>		
<p>Responding to Disclosures and Complaints</p>	<p>2.1 A student wishing to disclose or make a complaint about sexual assault or harassment can:</p> <ul style="list-style-type: none"> <li>contact the Welfare Team in person, by phone or by emailing them at <a href="mailto:welfare@insearch.edu.au">welfare@insearch.edu.au</a>,</li> <li>email <a href="mailto:complaint@insearch.edu.au">complaint@insearch.edu.au</a>, (emails are to be escalated to the Welfare Team),</li> <li>approach any trusted staff member who, after providing the appropriate trauma responsive support, will seek consent from the student to contact the Welfare Team</li> </ul> <p>2.2 For those identified in 2.1 above UTS Insearch will provide training on;</p> <ul style="list-style-type: none"> <li>responding in a trauma responsive way,</li> <li>immediate supports that are available and how they can be accessed including assisting the person to access medical, legal and counselling services,</li> <li>immediate actions that can be taken to increase safety,</li> <li>details of ongoing assistance that can be provided and how those options and supports can be accessed,</li> <li>how to assist a person if they choose to make a complaint (link to online complaint template),</li> <li>other options the person may have if the offender is not a member of the UTS Insearch community,</li> <li>how to make a complaint to Police, the <b>Human Rights Commission</b> and/or the <b>Tertiary Education Quality &amp; Standards Agency (TEQSA)</b> and how UTS Insearch can support the person to</li> </ul>	<p>Student Welfare Team Leader All UTS Insearch Staff and Affiliates</p>

	<p>access these options,</p> <ul style="list-style-type: none"> <li>• support and options for a person who chooses to make a disclosure only, including what will happen with the information provided, that they can decide at a later time to make a formal complaint and confirm that support options continue to be available,</li> <li>• duty of care assessment and response,</li> <li>• the <b>UTS Insearch Sexual Assault and Harassment Policy</b>, this procedure and related processes; including a 'who to contact list' and the process flow chart (see Appendix of this procedure),</li> <li>• confidentiality requirements, and</li> <li>• the potential vicarious trauma impact that may result from hearing trauma content and vicarious trauma management strategies.</li> </ul> <p><b>2.3 Immediate Measures to Ensure Safety</b> Where the Welfare Team identifies an immediate safety issue in relation to sexual assault or harassment, they will consult with the Registrar and/or HR. The Registrar and/or the WHS Committee have the power to:</p> <ul style="list-style-type: none"> <li>• restrict or suspend student or staff access to the UTS Insearch campus or property,</li> <li>• prevent a student or staff from accessing particular classes,</li> <li>• prohibit a student or staff from speaking to or approaching another student or group of students (<i><b>note: this requirement is immediate when a complaint is made</b></i>),</li> <li>• temporarily suspend student or staff from UTS Insearch and/or</li> <li>• temporarily suspend a student or staff from specified activities; and/or positions of leadership.</li> </ul> <p>The Welfare Team must make all attempts to consult with the person who may have experienced the incident that has resulted in the safety concern/s. Special care must be taken if the information the Welfare Team are acting on was provided by a bystander. In these circumstances, advice should be requested from the WHS Committee or UTS Counselling Unit prior to approaching the person as appropriate.</p> <p>Where the safety issue is imminent, and consultation has not been possible, the Welfare Team will prioritise safety; this may include finding alternate accommodation arrangements.</p> <p>Failure by the student, students or staff to comply with the safety measures may lead to disciplinary action.</p> <p><b>2.4 Reports from Ethical Bystanders</b></p>	<p>Student Welfare Team Leader All UTS Insearch Staff and Affiliates</p>
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	<p>If a member of the UTS Insearch community becomes aware of, or observes an incident of sexual assault or harassment, they can make a disclosure to the Welfare Team.</p> <p>The person making the disclosure should seek the consent of the person who experienced the incident. However, if consent is not given, the bystander may choose to disclose the information without providing identifying information. Bystander reports will be reviewed by the Welfare Team in the same way as a disclosure.</p> <p><b>2.5 Disclosures</b></p> <p>Information that sexual assault may have occurred will always be treated as a critical incident and responded to as per the Critical Incident Policy.</p> <p>Where a person makes a disclosure in relation to sexual assault or harassment but chooses not to make a complaint their decision will be respected.</p> <p>The person disclosing will be:</p> <ul style="list-style-type: none"> <li>• provided trauma responsive support and offered access to the support services of their choice,</li> <li>• provided with information about how, and for how long, the information they have provided will be stored and the storage security arrangements,</li> <li>• offered the option of consenting to the undertaking a review of the de-identified information they have provided,</li> <li>• informed that at any time they can choose to make the disclosure a complaint.</li> </ul> <p>The person to whom the disclosure has been made will record the information they have been provided and their actions. The information will be stored in the required format and the secure location.</p> <p>The person who receives the disclosure will write, in a timely manner, to the person who made the disclosure, using the agreed medium, and provide:</p> <ul style="list-style-type: none"> <li>• trauma responsive communication that supports the person's decision to disclose,</li> <li>• confirms the support options provided,</li> <li>• confirms, if consent was given, that there will be a review of their non identifying disclosure. The information will confirm the names /position of those who will undertake the review, the expected timeframe, and the outcome options.</li> </ul> <p>The confidentiality of the process, their right to make a complaint at any time and any other information provided or agreed to at the time of the disclosure will be included.</p>	<p>Student Welfare Team Leader/ HR/ Registrar</p>
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UTS INSEARCH (STUDENT) SEXUAL ASSAULT AND HARASSMENT RESPONSE PROCEDURE  
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	<ul style="list-style-type: none"> <li>• Confirmation of who the complaint has been forwarded to. The information will confirm the details of the person(s) who the complaint has been escalated to, that the complainant will be informed of progress and who to contact if they require further information or assistance,</li> <li>• The Welfare Team member will, with prior permission, regularly check in on the person to make sure they are supported and have access to services they may need.</li> <li>• Provide information in consultation with the Registrar and/ or HR Team to the complainant on actions and progress.</li> <li>• Monitor and assist participants in their engagement with support and advice services.</li> </ul> <p>3.3 The Health Safety Oversight Committee will:</p> <ul style="list-style-type: none"> <li>• Accept written complaints about sexual assault or harassment,</li> <li>• Review the complaint against the <b>Student Charter</b> or <b>Code of Conduct</b> and determine if a breach has occurred,</li> <li>• If a potential breach is identified, provide the complaint to the person or persons nominated by the complainant as those who may have breached these and request a written response within a reasonable timeframe.</li> <li>• Request information from other relevant parties including any additional information from the complainant and respondent/s,</li> <li>• Review the information gathered and make an 'on a balance of probabilities' determination, if a breach has occurred,</li> <li>• Where a breach of the <b>Student Charter</b> or <b>Code of Conduct</b> cannot be confirmed, provide that information via the Welfare Team to the participants,</li> <li>• Where a breach is confirmed direct the corrective action to be undertaken as per point 4.4 of the <b>UTS Insearch (Student) Sexual Assault and Harassment Policy</b>.</li> </ul> <p>3.4 In gathering further information and in making its determinations those reviewing will:</p> <ul style="list-style-type: none"> <li>• be aware of and reduce as far as possible any adverse or traumatic actions their review may have on the complainant,</li> <li>• limit as far as possible the number of people who are aware of the identity of the complaint and respondent/s,</li> <li>• keep the Welfare Team informed of progress so they can update the complainant; and</li> </ul>	<p>Student Welfare Team Leader/ Registrar/Chair HSOC</p>
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	<ul style="list-style-type: none"> <li>reduce as far as possible the time between complaint and outcome.</li> </ul>	
<b>CONFIDENTIALITY</b>		
Privacy	<p>4.1 All staff, once trained in first responder training, will be required to sign a confidentiality agreement that clearly states confidentiality requirements. This includes that:</p> <ul style="list-style-type: none"> <li>prior to forwarding any information given to them by a person who is disclosing or making a complaint about sexual assault or harassment, they are to inform the complainant of their intended action and seek their consent.</li> <li>In gaining consent, information is to be provided to the complainant about the reason for the information being forwarded, who will see it, what that person will do with it, how it will be stored, for how long it will be stored and how the information can be accessed.</li> </ul> <p>The exception will be:</p> <ol style="list-style-type: none"> <li>where there is a duty of care to self or others. In this circumstance consent will be requested from the complainant to activate emergency or other services. Where consent is not given duty of care considerations will override consent considerations, and</li> <li>where the person receiving the information seeks supervision from a trained superior.</li> </ol> <ul style="list-style-type: none"> <li>The complainant and the respondent will be required to maintain confidentiality during the review process. The exception being to seek professional psychological or legal support or information. For the respondent, should they be staff, this must be approved in writing by the Chair HSOC.</li> <li>The respondent will be informed that they are not to communicate any information about the complaint including that they are the subject of the complaint to anyone during or after the Complaint process. They will also be informed that they are not to approach the complainant or ask anyone to act as an intermediary in any form of communication with the complainant. The respondent will be informed that failure to abide by these requirements will result in immediate expulsion.</li> </ul>	All Insearch Staff and Affiliates/ Chair HSOC
<b>POLICY AND PROCEDURE REVIEW</b>		
Review	5.1 Annually, or after each of the first six disclosures or complaints where this procedure and its guiding policy is	

	<p>used, a review for quality improvement will be completed. The review will consider:</p> <ul style="list-style-type: none"> <li>• Was the policy, procedure and appendix information clear?</li> <li>• Did it provide the guidance required? Note: It is important to understand that every disclosure or complaint will be different. The training should provide those guiding the process with the knowledge to implement the Policy and Procedure within the document parameter while also tailoring the process to the individual needs of each complainant</li> <li>• Have barriers to reporting been reduced?</li> <li>• Did the staff involved in handling the matter feel well resourced?</li> <li>• If the complainant is willing to provide feedback this could include: <ul style="list-style-type: none"> <li>• Did the complainant feel supported and informed?</li> <li>• Was the distress caused by the incident reduced by participation in the disclosure or complaint process?</li> <li>• Did the complainant feel listened to and did they feel they had some control over the process?</li> <li>• Did they feel their choices were respected?</li> </ul> </li> </ul>	<p>Student Welfare Team Leader/ Head of Student Services</p>
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## DEFINITIONS

<b>Affiliates</b>	Includes UTS Insearch Board members, honorary appointees, contractors, labour hire personnel, volunteers, agency staff and any other person/s appointed or engaged by Insearch Limited.
<b>Complaint</b>	In this procedure, the formal provision of written information by a person who has experienced sexual assault or harassment to the UTS Insearch Welfare Team.
<b>Consent</b>	<p>Consent means free and voluntary agreement to sexual activity. Consent can be withdrawn, and this must be respected. Consent cannot be assumed; it must be given.</p> <p>Below is a legal definition of consent. The UTS Insearch position in relation to the Code of Behaviour is that consent is only given when consent is clearly expressed verbally or non-verbally. An absence of 'no' does not equal consent.</p> <p>A person does not give their consent if they:</p> <ul style="list-style-type: none"> <li>• do not have the capacity to consent due mental or physical impairment,</li> <li>• are asleep or unconscious,</li> <li>• are significantly affected by alcohol or other drugs,</li> <li>• are threatened, forced or afraid,</li> <li>• are restrained against their wishes,</li> </ul>



	<ul style="list-style-type: none"> <li>are tricked or mistaken about the nature of the act, or who the other person is,</li> <li>are tricked into thinking the other person is married to them or feel forced due to the position of authority by another person.</li> </ul> <p>A person under 16 years cannot consent to sexual activity.</p> <p>Adapted from Youth Law Australia.</p>
<b>Disclosure</b>	Occurs when a complainant or another person tells someone about an incident of sexual assault or harassment. Disclosing is not the same as reporting. Disclosure will enable referral to appropriate support and information such as medical, legal and counselling support.
<b>Ethical Bystander</b>	In this policy context - a person who has knowledge about an incidence of sexual assault or harassment and makes a disclosure or complaint
<b>Natural Justice</b>	A duty to act fairly, where bias that may influence decision making is known, and there is a fair hearing offered to all parties.
<b>Retaliatory Action</b>	Threaten, intimidate or harass any person, intentionally interfering in a review or interfering with the academic or professional progress or career of an individual in relation to a complaint.
<b>Sexual Assault</b>	<p><b>Sexual assault</b> - means engaging in sexual acts of a penetrate nature (such as intercourse and oral sex) with the person without their consent. This can be when it is known they do not consent, or there is a lack of care in relation to consent.</p> <p><b>Sexual Touching and Sexual Acts</b> includes touching another person in a sexual way (for example, on a person's breasts or genitals) without their consent.</p> <p>A sexual act comprises doing something of a sexual nature towards another without their consent (for example, masturbating in front of them).</p> <p><b>Sexually Explicit Photos or Videos</b> – is creating or distributing sexually explicit or intimate photos or videos of a person without their consent or threatening to do this.</p>
<b>Sexual Harassment</b>	<p>Unwanted or unwelcome sexual behaviour which offends, humiliates or intimidates. Sexual harassment is defined by the person experiencing the actions not by the stated intent of the person or persons actioning the behaviour. Sexual harassment can be physical, spoken or written. It can include, but is not limited to:</p> <ul style="list-style-type: none"> <li>comments about a person's private life or the way they look</li> <li>sexually suggestive behaviour, such as leering or staring</li> <li>brushing up against someone or hugging</li> <li>sexually suggestive comments or jokes</li> <li>displaying offensive screen savers, photos, calendars or objects</li> <li>repeated unwanted requests to go out</li> <li>requests for sex</li> <li>sexually explicit posts on social networking sites</li> </ul>

	<ul style="list-style-type: none"> <li>• insults or taunts of a sexual nature</li> <li>• intrusive sexually suggestive questions or statements about a person's private life</li> <li>• sending sexually explicit emails or text messages</li> <li>• inappropriate advances on social networking sites</li> <li>• accessing sexually explicit internet sites</li> </ul> <p>A single incident constitutes sexual harassment.</p> <p>Lack of objection to the behaviour does not mean consent can be assumed.</p>
<b>Students</b>	Those currently enrolled in UTS Insearch courses, including those who have enrolled but not yet commenced their studies and are onshore.
<b>Volunteers</b>	Current students or Alumni of UTS Insearch who volunteer to support current students across various events, activities and clubs.
<b>Workplace</b>	The workplace includes classrooms, offices and other UTS Insearch facilities, the UTS campus, channel partners and other stakeholders' premises, work related functions, events and any place visited arising out of or during the course of work, and any transportation provided or paid for by UTS Insearch for undertaking any such work.

## SUPPORTING DOCUMENTS:

Racial Discrimination Act 1975 (Cth)

Anti-Discrimination Act 1977 (NSW)

Disability Discrimination Act 1992 (Cth)

Sex Discrimination Act 1984 (Cth)

Age Discrimination Act 2004 (Cth)

Sex and Age Discrimination Legislation Amendment Act 2011

Fair Work Act 2009 (Cth)

Fair Work Amendment Act 2013 (Cth)

Australian Human Rights Commission Act 1986 (Cth)

Work Health & Safety Act 2011 (NSW)

UTS Insearch (Student) Sexual Assault and Harassment Policy

UTS Insearch (Student) Sexual Assault and Harassment\_Flowchart Students

UTS Insearch (Student) Sexual Assault and Harassment\_Flowchart First Responder (Staff)

UTS Insearch Prevention of Discrimination, Harassment and Bullying Policy

UTS Insearch Code of Conduct

UTS Insearch Student Charter

UTS Insearch Critical Incident Policy and Management of Student Incident Procedure

UTS Insearch Non-academic Misconduct Policy and Procedure


UTS Insearch Student Complaints and Appeals Policy and Procedure

UTS Insearch Special Consideration Procedure

UTS Insearch Equal Opportunity Policy

UTS Insearch Work Health & Safety Policy and Procedures

## ADMIN USE ONLY

APPROVAL	
Signature: 	
Name: <b>Chief Operations Officer</b> Date: 15th Jul 2020	
Procedure Title	UTS Insearch (Student) Sexual Harassment Response Procedure
Senior Leader	Chief Operations Officer
Manager	Head of Student Services
Procedure ID	PROC/OPS/12/20
Effective Date:	July 2020