Sexual Harm Prevention and Response Policy

Emergency assistance

If someone is in immediate danger or requires medical attention, use the emergency assistance contacts:

- For immediate help – 000
- For on campus security assistance – 1800 931 633

For other student support, see the Project Zero website.

Notes on language

This policy contains language and references to sexual assault and sexual harassment. If anything in this policy has affected or distressed you, you may wish to seek support.

Section 1 - Purpose

(1) Charles Sturt University (the University) is committed to providing a safe, inclusive, and respectful environment where its members can study, work and live free from sexual harm. This policy sets out the University's overarching principles and commitment to preventing and responding to incidents of sexual assault and sexual misconduct, and supports compliance with:

a. Higher Education Standards Framework (Threshold Standards) 2021 standards 2 and 6
b. National Code of Practice for Providers of Education and Training to Overseas Students 2018 standard 6
c. Sex Discrimination Act 1984 (Cth)
d. Fair Work Act 2009
e. Workplace Gender Equality Act 2012

Scope

(2) The policy applies to members of the University community when engaged in University-related activities occurring on and off campus, including University-related social events and activities that use online platforms and/or social media. This includes, and is not limited to:

a. teaching, study and research at the University
b. the management or administration of the University
c. University-managed student or staff accommodation
d. sporting and recreational clubs and facilities to the extent that they fall within the University community
e. any University-related clinical, professional or practical work, including workshops, camps or field trips

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f. any other activities sponsored, controlled or supervised by the University
g. activities on any University campus and all University controlled buildings, facilities, premises and equipment
h. activities using information or communication technologies associated with the University, such as online learning platforms and social media.

(3) This policy does not apply to sexual assault affecting anyone under the age of 18. Reports of child abuse, which includes any sexual offence or sexual misconduct involving children or young people, must be managed in accordance with the Child Safety Policy.

Section 2 - Policy

Principles

(4) The University's strategies for prevention of and responding to sexual harm are based on the following principles:

a. Sexual harm (including sexual assault, sexual harassment or any other inappropriate conduct of a sexual nature) is unlawful, unacceptable and is not tolerated.
b. All members of the University community have the right to be treated with dignity and respect, and to work or study in a safe environment.
c. Reports of sexual harm that relate to University students, staff and others associated with the University community will be treated seriously, whether recent or historic.
d. The safety and wellbeing of persons disclosing or formally reporting sexual harm is the priority. Evidence-based, trauma informed and person-centred support services will be available to students and, as far as practicable, other members of the University community who disclose or report a sexual assault or sexual harassment.
e. The University will, where possible, consult with the person who experienced sexual assault or sexual harassment and take their wishes into account when responding to a report.
f. Sexual assault and sexual harassment constitute misconduct/serious misconduct and can be a valid reason for dismissal, exclusion or expulsion. Reports will be investigated and managed under the Student Misconduct Rule 2020 (for students), the Enterprise Agreement or contract of employment provisions (for staff), or other contracts or arrangements as relevant for other University community members (subject to the 'Police investigations' heading of the Sexual Harm Response Procedure - Students).
g. Notwithstanding the scope of this policy and the situations where the University may or may not elect to investigate conduct, the effects of sexual harm are recognised and the University will offer appropriate support services and referrals for students affected by sexual harm and consider reasonable measures to ensure a safer community.

Disclosing and reporting sexual assault and sexual harassment

(5) The following procedures set out how to make a disclosure or report of sexual assault or sexual harassment to the University, and how these will be managed:

a. For students and past students, or student-related incidents, see the Sexual Harm Response Procedure - Students.
b. For staff, see the Complaints Procedure - Workplace.
c. For other members of the University community, see the Complaints Management Procedure.

(6) Reports and investigations of sexual assault or sexual harassment incidents are serious matters with potentially serious consequences for those involved. Persons who use this policy and related procedures to make vexatious or frivolous reports, or who lie or deliberately mislead in connection with a report or investigation, may be subject to

misconduct proceedings.

Nature of sexual assault and sexual harassment

Behaviours that constitute sexual assault and sexual harassment

> Note: The NSW Crimes Act 1900 Division 10 sets out behaviours and definitions that constitute sexual offences. It is also unlawful under the Sexual Discrimination Act and Fair Work Act 2009 for a person to sexually harass another person in connection to work, including in the workplace.

(7) For the purpose of reporting and investigating sexual harm within the University context, the University will be informed by statutory definitions of sexual assault and sexual harassment (see note above), but may also consider and refer to other activities and behaviours (including inciting and/or threatening to engage in these activities and behaviours) as sexual assault and sexual harassment. This includes but is not limited to the following:

a. As defined in Division 10 of the Crimes Act 1900:
    i. sexual intercourse without consent
    ii. sexual touching without consent
    iii. sexual acts (acts carried out in circumstances where a reasonable person would consider the act to be sexual) without consent.
b. Voyeurism or observing a person on purpose for sexual gratification, without consent.
c. Recording and/or distributing an intimate image without consent – using electronic, digital, or other means to make or distribute photographs, audio, or visual recordings of another person, including altered or generated images of another person.
d. Sexual harassment, such as unwelcome sexual advance, request for sexual favours, or other conduct of a sexual nature that is unwelcome to the person who is harassed, in circumstances where it is reasonable to expect that there is a possibility that the person being harassed would be offended, humiliated or intimidated by the behaviour. See also the 'Sexual harassment' heading in the Bullying, Discrimination and Harassment Prevention Procedure for examples of sexual harassment.
e. Other behaviours that amount to sexual harm, including grooming and other predatory behaviour.

(8) Sexual interaction, flirtation, attraction, or friendship that is invited, mutual, consensual or reciprocated is not considered to be sexual assault or sexual harassment. However, these behaviours or interactions may lead to sexual harm and may be considered sexual assault or sexual harassment if the interaction is non-consensual or consent is withdrawn at any time.

Consent

(9) Consent must be free, voluntary, active and ongoing.

(10) A person is not able to consent to sexual activities when:

a. they are asleep or unconscious
b. they are substantially intoxicated by alcohol or any drug
c. they do not have capacity to consent because of their age, physical disability, or cognitive capacity
d. they are intimidated, coerced, or threatened
e. they are unlawfully detained
f. they are (or perceive themselves to be) pressured to engage in sexual activities by another person, who is in a position of power, authority, or trust

g. they are tricked about the identity of any person involved
h. they are tricked about the situation
i. they are under 16 years of age.

(11) See the NSW Crimes Act s 61HJ for further examples of circumstances in which consent is considered to be absent.

Prevention

(12) The University is committed to creating safer University communities by providing a safe, supportive, and inclusive learning and working environment that is free from sexual assault, sexual harassment, and violence.

(13) The University aims to prevent sexual harm by:

a. establishing central points of inquiry and reporting of inappropriate, concerning, and threatening behaviour, and providing a respectful and confidential place to seek support and advice. For example the:
    i. the Prevention and Support Specialist program for students and past students
    ii. the Complaints, grievances and whistleblowing website and/or Employee Assistance program for staff and other members of the University community
b. providing training and education to students and staff to promote a respectful and inclusive culture and to empower individuals within the University to address underlying disrespectful attitudes and behaviours
c. providing sexual assault and sexual harm awareness training for campus security and University staff, and monitoring and reporting on completion rates of this training
d. modelling and communicating the University's expectations of respectful behaviour across all University functions and all levels of staff and students
e. endeavouring to improve diversity and inclusion
f. monitoring incidents of sexual assault and sexual harassment and providing periodic (de-identified) reports to University governing bodies
g. identifying sexual assault and sexual harassment risks within the University's risk register and developing mitigation strategies
h. proactively assessing risks and implementing appropriate risk mitigation measures. This will include acknowledging the gendered nature of sexual assault and sexual harassment and endeavouring to address gender inequality and other power imbalances, and acknowledging the needs of particular groups of individuals, including but not limited to people with disability, LGBTIQA+ individuals, First Nations peoples and people who are culturally and linguistically diverse.

Responsibilities

	Responsibilities
University management	1. Provide resources to establish proactive prevention programs and processes for receiving, investigating and managing reports of sexual assault, sexual harassment and violence. 2. Impose sanctions if a University investigation of a report concludes that a person has engaged in misconduct (in accordance with the Student Misconduct Rule, Enterprise Agreement or Code of Conduct). 3. Receive reports and recommendations, ensure implementation of actions against agreed outcomes. 4. Ensure confidentiality and privacy, in accordance with University policies and legal obligations.

	Responsibilities
Division of Safety, Security and Wellbeing	1. Provide evidence-based and person-centred support services to students who have experienced sexual assault or sexual harassment. 2. Where investigating student related reports, take all reasonable steps to prioritise the rights, needs and wishes of the person who experienced sexual assault or sexual harassment, whilst ensuring procedural fairness to all parties (in accordance with the relevant investigation process). 3. Identify and monitor risks, develop/make recommendations on mitigation strategies. 4. Report on trends and emerging risks to University governance and management, and as otherwise required by relevant legislation. 5. Ensure confidentiality and privacy, in accordance with University policies and legal obligations.
Division of People and Culture	1. Develop and/or deliver proactive prevention programs. 2. Where investigating reports related to staff, take all reasonable steps to prioritise the rights, needs and wishes of the person who experienced sexual assault or sexual harassment, whilst ensuring procedural fairness to all parties (in accordance with the relevant investigation process). 3. Identify and monitor risks, develop/make recommendations on mitigation strategies. 4. Capture data and report as required under the Workplace Gender Equality Act 2012. 5. Ensure confidentiality and privacy, in accordance with University policies and legal obligations.
Managers and supervisors (including teaching staff)	1. Understand relevant policy and legislative requirements (as stated under this policy). 2. Make all reasonable efforts to ensure that the workplace and study environment are respectful, safe and free from sexual assault and sexual harassment.
Staff	1. Must not sexually assault or sexually harass any other member of the University community. 2. May be required to undertake education and training in relation to sexual assault and sexual harassment.
Students	1. Must not sexually assault or sexually harass any other member of the University community. 2. May be required to undertake education and training in relation to sexual assault and sexual harassment.

Section 3 - Procedures

(14) See the:

a. Sexual Harm Response Procedure - Students for incidents involving students
b. Complaints Procedure - Workplace for incidents involving staff
c. Complaints Management Procedure for other members of the University community
d. Bullying, Discrimination and Harassment Prevention Procedure for information about other types of assault or harassment.

Section 4 - Guidelines

(15) Nil.

Section 5 - Glossary

(16) For the purpose of this policy:

a. Charles Sturt University community/University community – means:
    i. members of the University Council
    ii. staff
    iii. students
    iv. student organisations including student groups, clubs, and societies
    v. community clubs under the Clubs Policy

vi. sub-contractors working on University premises
vii. tenants and licensees of University premises and their officers and staff
viii. persons conducting an authorised business or other activity upon University premises
ix. members of the public who are visiting University premises, or taking part in University activities (as set out in the scope of this policy)
x. people external to the University with whom students or staff interact as part of their study or work (e.g. employers supervising student workplace learning placements)
xi. residents in University accommodation.

b. Person-centred – means an approach that supports a victim or survivor's rights and wishes and prioritises safety, dignity, and respect.
c. Staff – means any staff member of the University, including officers, employees and contractors of the University and appointees to adjunct, emeritus, honorary, clinical, and visiting positions of the University.
d. Student – as defined in the policy library glossary, and for the purpose of this policy also includes:
    i. a student of another educational institution who is authorised by the University to be on or to have access to or use of University property
    ii. a person who was a student at the time of any alleged misconduct
    iii. a person who became admitted or enrolled as a student after having done so by misleading or dishonest means
    iv. any person who has been suspended or excluded from a course or subject of study by the University.
e. University premises means any:
    i. premises owned operated, supervised, occupied, or controlled by the University, including premises of which the University is the landlord
    ii. premises on which University activities (as set out in the scope of this policy) take place
    iii. University accommodation.
f. Vexatious or frivolous report – means a report of sexual assault or sexual harassment that:
    i. does not have a basis in fact
    ii. is made to damage another person's or the University's reputation or standing.

Status and Details

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Unit Head	Frank Tamsitt Executive Director, Safety, Security and Wellbeing
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Glossary Terms and Definitions

"**Student**" - means a person who is or was enrolled in, or seeking admission to, a course or subject offered by the University or a partner institution or organisation, or who is given permission to audit a course or subject offered by the University or a partner institution or organisation; it includes a candidate for a higher degree by research award, as well as students enrolled in online or on-campus study modes. A student remains a student while on approved leave of absence.