

# Resolution Procedures for Sexual Harassment, Sexual Assault and Discrimination Related Complaints

## Section 1 - Purpose

(1) The University is committed to ensuring a fair, safe and respectful working and learning environment and ensuring access to processes that enable conflict to be resolved and unacceptable behaviour to be addressed.

These Procedures are designed to provide a timely, fair, transparent, accessible and consistent process for the resolution of complaints about sexual harassment, sexual assault and discrimination-related matters.

(2) These Procedures should be read in conjunction with:

- a. the [Equal Opportunity and Diversity Policy](#) which sets out QUT's commitment to a University culture supportive of equal opportunity and respectful relationships and interactions that value social and cultural diversity; and
- b. the [Sexual Harassment and Sexual Assault Policy](#) which outlines the principles and aims governing the University's approach to preventing sexual harassment and sexual assault and to responding to disclosures and complaints made by staff or students.

(3) The University has also engaged external and independent complaint management service called Your Call.

(4) Staff have the option to utilise the existing internal pathways to lodge a complaint (e.g. with an appropriate supervisor or leader) or to make it directly to Your Call. If Your Call receive the complaint they will act as the intermediary at all times, receiving and forwarding communication between the complainant and QUT.

(5) Your Call have protocols in place to protect the anonymity of staff making complaints, noting there may be limitations on the extent to which anonymous complaints can be fully investigated and/or resolved.

(6) Importantly, Your Call will refer all matters back to QUT for resolution in accordance with this policy, where relevant, and updates on the complaint resolution process will be provided to Your Call for sharing with the complainant. Conflict of interest, Code of conduct and Confidentiality provisions apply to all those involved in handling complaints.

## Section 2 - Application

(7) These Procedures apply to complaints of sexual harassment, sexual assault or discrimination made by, or about, staff, students and other members of the QUT community while undertaking any activity in their QUT capacity or while engaged in any activity which impacts on QUT or other members of the QUT community.

(8) For the purposes of these Procedures:

- a. "Student" means persons to whom the [Code of conduct - student](#) applies; and

b. "Staff and other QUT community members" means persons to whom the [Code of conduct - staff](#) applies.

(9) These Procedures do not apply to conflict with other organisations, or with people outside the QUT community. However, QUT recognises that sexual harassment, sexual assault and discrimination can affect the health and wellbeing of the members of the QUT community regardless of where the incident occurred. If the complaint arises from a QUT context (for example, harassment at a public function on a QUT campus) or during a QUT-related activity (for example discrimination against a student in a work placement), the person affected will be assisted to access the appropriate complaint mechanism and be provided with support.

(10) Where the respondent is from an organisation affiliated with the University, the University may, with the complainant's consent, refer the matter to the affiliated or associated organisation for the organisation to investigate.

(11) Where the respondent is not covered by the application of these Procedures, the University has no basis to investigate the allegations and determine if they are substantiated. However the University's support and referral services will still be available.

(12) The University has the right to determine under which of its procedures a complaint will be handled. If it is determined that a complaint lodged under these Procedures will more effectively be managed under a different policy or procedures, the complainant will be advised.

(13) Complaints must be lodged within 12 months of the incident unless exceptional circumstances exist that prevented earlier reporting. Timely reporting of complaints is important in order to ensure fair treatment of all involved. Where the last alleged occurrence of sexual harassment, sexual assault or discrimination falls outside the 12 months, Equity should be contacted for advice about options.

## Section 3 - Roles and Responsibilities

Position	Responsibility
Managers and supervisors	Respond to complaints of sexual harassment, sexual assault and discrimination with the advice and assistance of the Director, Equity or Vice-President (People) and Chief People Officer. Seek the advice of the Director, Equity and in the first instance when approached by a student or staff member about sexual harassment, sexual assault or discrimination to ensure a trauma-informed approach is adopted from the outset.
Director, Equity	Takes a lead role in conjunction with the relevant manager/supervisor in matters of students making complaints against students or staff, and staff making complaints against students unless otherwise agreed in collaboration with the Vice-President (People) and Chief People Officer. Liaises in an ongoing way with the Vice-President (People) and Chief People Officer in relation to any matters involving staff to ensure compliance with relevant Human Resources policies and workplace relations legislation.
Vice-President (People) and Chief People Officer	Takes a lead role in conjunction with the relevant manager/supervisor in matters involving staff making complaints against other staff, unless otherwise agreed in collaboration with the Director, Equity. Liaises in an ongoing way with the Director, Equity in relation to any complaints involving staff as complainants or respondents to ensure compliance with relevant equity policies and anti-discrimination legislation and a consistent trauma-informed approach to complaint handling.

## Section 4 - Principles Governing Complaint Handling

### Natural Justice and Procedural Fairness

(14) The principles of natural justice and procedural fairness will be observed. All persons are to be treated with respect and impartiality at all stages of the process.

## **Timely Resolution**

(15) QUT acknowledges that the complaints process is stressful for all parties who are involved. The resolution process will be conducted as expeditiously as possible and, in Stage 1 Preliminary assessment and early resolution, every attempt will be made to achieve resolution in four weeks. Timeframes may vary as appropriate to the nature and complexity of the complaint and availability of all people concerned. All parties are to be kept informed of progress in a timely manner.

## **Trauma-informed Approach and Complainant Choice**

(16) The safety and wellbeing of the person complaining about sexual harassment, sexual assault or discrimination is the priority of the University and every effort will be made to minimise further harm or trauma for the person and to avoid the need for them to retell the complaint details. To the extent possible, the person's choices about how to proceed will be respected and balanced against the obligation of the University to protect the wellbeing and safety of the University community and to comply with its legal obligations and duty of care.

## **Support**

(17) Throughout this process, any person involved in the resolution process will be offered assistance and support and may request the assignment by the Director, Equity of a support person such as someone familiar with cultural and/or social issues relating to Aboriginal or Torres Strait Islander people, or someone with cross-cultural communication skills. Where necessary, interpreter services will be provided for those who would prefer to provide information in their first language.

(18) Any person may be supported, and accompanied at any point in the process, by a person of their choice (for example, a friend, colleague, a person from the Oodgeroo Unit, Student Services, relevant staff union, or QUT Student Guild).

(19) Support persons cannot act as advocates and cannot include those who are currently practising as a solicitor or barrister.

## **Consistency and Transparency**

(20) Regardless of which organisational area (Human Resources or Equity) takes the lead role in managing complaints in conjunction with managers or supervisors the approach to complaint handling will be consistent and in line with the principles set out in these Procedures so that there is transparency for staff and students about roles and responsibilities and they can be assured of a trauma-informed approach.

## **Confidentiality and Defamation**

(21) Confidentiality will be respected and maintained within the constraints of the need to fully investigate the matter, subject to any legal requirements for disclosure and consistent with the principles of natural justice.

(22) Provided that University procedures are followed and the persons involved act in accordance with their duties and in good faith, staff are indemnified by the University against any loss or damage incurred by a relevant legal action taken against them. Seeking information from a supervisor or Equity about alleged behaviour, or lodging a complaint about such behaviour, would not normally constitute defamation. However, conveying information about a complaint to anyone who does not have a genuine need to know may open up the possibility of being sued for defamation.

## Section 5 - What is a Complaint

(23) A complaint is a formal option available to a person seeking access to support, advice about options and assistance but to intervene or resolve the matter. When a complaint is lodged the respondent must be provided with the opportunity to respond to the allegations in accordance with natural justice and procedural fairness.

## Section 6 - How to Make a Complaint

(24) Students or staff are encouraged to approach specialist staff in Equity who can listen to concerns, provide support and advice about options, and liaise with other organisational areas if necessary to access assistance.

(25) However any trusted person in the QUT community may be approached for advice including a supervisor or manager, Human Resources, relevant staff union, Student Services, Oodgeroo Unit, Medical Services or QUT Security, the Student Guild, and Student Ombudsman Office.

(26) Roles and responsibilities in relation to management of the complaint will be in accordance with Section 3 above of these Procedures.

(27) The University expects that all parties involved in a complaint will engage in good faith with the complaints resolution process.

## Section 7 - Two Stage Complaint Resolution Process

(28) There are two stages to resolution of a complaint. The stages are not necessarily linear and a complaint may proceed directly to stage 2 depending on the circumstances. Factors that may influence the decision include:

- a. the wishes of the complainant;
- b. the seriousness of the allegations;
- c. the extent of evidence available that supports the allegations;
- d. where the facts are contested; and
- e. concerns about the wellbeing and safety of the complainant or other member of the QUT community.

### Stage 1 Preliminary Assessment and Early Resolution

(29) At this stage complainants will be supported by the manager/supervisor and relevant organisational area (Equity or Human Resources) to provide information about:

- a. the issues involved in the complaint (what happened and when);
- b. who was involved (respondent/s and any witness/es);
- c. what avenues they have already explored;
- d. what will resolve the matter for them; and
- e. what supports they need to make them feel safe and the best strategies to ensure the safety of all parties.

(30) QUT acknowledges that in many circumstances complainants are seeking to resolve their complaint informally and quickly with outcomes such as an apology, cessation of the behaviour or another outcome mutually agreed with the respondent and that many complaints will be resolved at stage 1.

(31) The manager/supervisor in collaboration with the relevant organisational area may use a range of strategies to resolve the complaint at this stage and will be guided by the needs and wishes of the complainant and the need to

assure safety. Strategies might include:

- a. seeking the assistance of another appropriate supervisor in resolving the complaint;
- b. requesting the Director, Equity to assign a support person to assist in clarifying the complaint;
- c. seeking advice and assistance from the Director, Equity or Vice-President (People) and Chief People Officer and involving them in conciliation meetings between the parties;
- d. conducting separate interviews with the persons involved in the complaint and conveying information from one party to the other;
- e. once the complaint is resolved, providing parties with written advice of the outcomes.

(32) Early resolution and conciliation should only be considered if all parties are willing to proceed and if there is sufficient common ground between the parties to ensure there is some prospect of a positive outcome.

(33) However conciliation is never appropriate in relation to complaints of sexual assault and may not be appropriate for many complaints of sexual harassment or discrimination.

(34) At no time will the complainant and respondent be required to meet with or to participate in any activity with one another, unless they have both given their prior informed consent.

## **Stage 2 Investigation**

(35) Where early resolution is not appropriate due to the nature of the allegations or has not been successful, and considering the wishes of the complainant, the relevant head of the organisational area may initiate an investigation in consultation with the Director, Equity and/or Vice-President (People) and Chief People Officer, who will take into account the relevant student or staff code of conduct.

(36) Where an investigation is required, it may be conducted:

- a. by a University officer with the appropriate skills;
- b. by an external investigator with appropriate skills.

(37) Investigators should have no prior involvement in the matter, have no actual, perceived or potential conflicts of interest and have the capacity and seniority to consider the issues and provide appropriate recommendations.

(38) Subject to the specific circumstances of each case, the investigator will:

- a. treat matters sensitively, seriously and confidentially, only disclosing information on a 'need to know' basis;
- b. investigate all matters in an impartial, independent, timely and procedurally fair way;
- c. identify and speak to relevant people, including the complainant, respondent and any witnesses;
- d. interview any other University officer involved at stage 1;
- e. review any relevant evidence;
- f. consider the complaint in the context of QUT policy and relevant legislation;
- g. seek advice from any person the investigator deems appropriate;
- h. assess complaints on their merits and facts; and/or
- i. obtain and consider any further relevant information.

(39) The investigator will advise the relevant officer of the investigative process and any findings and recommendations.

(40) The relevant head of the organisational area in consultation with the relevant area (Equity and/or Human Resources) will:

- a. consider any findings or recommendations from the investigation; and
- b. take appropriate steps to keep the parties informed of progress.

(41) If the complaint is resolved at this stage the relevant head of the organisational area will follow up two months later, or at other times if necessary, with the complainant to ensure that there has been no further concerns.

## Section 8 - Disciplinary Proceedings

(42) Where, following assessment or investigation of the complaint, there is sufficient information or evidence of a breach of the staff or student code of conduct, the matter may be referred for disciplinary proceedings under the relevant policies or documented procedures.

(43) In relation to complaints made against students, the [Management of Student Misconduct Policy](#) is relevant.

(44) In relation to complaints made against staff, the disciplinary procedure under the relevant Enterprise Agreement or [Disciplinary Action for Misconduct and Serious Misconduct Policy - Senior Staff](#), will apply, as appropriate.

## Section 9 - Complaints from a Third Party Reporter and Anonymous Complaints

(45) A manager, supervisor or other third party reporter may seek the advice of the Director, Equity where behaviours observed or drawn to their attention by someone other than the complainant, could amount to sexual harassment, sexual assault or discrimination. In these circumstances the Director, Equity will determine what response is appropriate. If the allegation is against a staff member, the Director, Equity will liaise with the Vice-President (People) and Chief People Officer so the allegation can be cross-referenced with other information to determine whether the report may be related to other matters already known to the University.

(46) The University may not be able to take action arising from anonymous complaints or matters raised by a third party reporter in certain circumstances including:

- a. where there is limited or no information available to identify the parties involved; or
- b. action is not able to be taken in accordance with the principles of natural justice and procedural fairness.

## Section 10 - Reporting to the Police or Other External Agency

(47) Any person can make a report to the police or other external agency such as the Queensland Human Rights Commission or the Australian Human Rights Commission at any time.

(48) QUT will cooperate with the relevant external agency but these Procedures will be discontinued.

(49) Disciplinary action by the University will likely be suspended until a criminal proceeding is finalised. However in certain circumstances the Vice-President (Administration) and University Registrar may determine otherwise. In such cases the University will proceed with due care to ensure that any action taken in any University proceeding does not prejudice the criminal proceeding.

(50) Suspension or discontinuation of these Procedures does not prevent the University from taking other reasonable action to identify and mitigate potential risks to the wellbeing and safety of the QUT community.

## Section 11 - Support

(51) In line with the trauma-informed approach, support and measures to secure safety and wellbeing will usually be coordinated by the organisational area that is taking the lead role in complaint handling in conjunction with the relevant manager/supervisor.

(52) Such support and safety measures may include:

- a. directing a staff member or student not to attend a particular campus, class or location;
- b. class timetable changes;
- c. academic special adjustments;
- d. work placement reassignment;
- e. adjustments to working arrangements such as alternative work location or change in reporting line;
- f. temporarily standing down or shifting a staff member;
- g. measures to minimise the risk of victimisation; and/or
- h. a safety plan so that complainants do not need to repeat their story.

## Section 12 - Frivolous and Vexatious Complaints

(53) The University may take action if a person makes a frivolous or vexatious complaint. Any person found to have made such a complaint may be subject to disciplinary procedures. A complaint made in good faith is not a vexatious complaint even if the complaint is not eventually substantiated.

## Section 13 - Victimisation

(54) The University does not tolerate victimisation. Disciplinary action may be taken against any person who victimises another person because of their involvement in these resolution Procedures as a complainant, respondent, or third party such as witness or support person to a complainant or respondent.

## Section 14 - Record Keeping, Reporting and Monitoring

(55) Information received as part of a disclosure or complaint will be:

- a. recorded and kept confidential, except insofar as is necessary for the University to conduct an investigation or disciplinary process, or to comply with law; and
- b. made anonymous and used to identify trends and systemic issues, improvements, and preventive actions and reported to the University on a regular basis.

## Section 15 - Definitions

Term	Definition
Complainant	Means any person who makes a complaint of sexual harassment, sexual assault, discrimination or harassment in accordance with these Procedures.
Conciliation	Is the process of resolving a complaint through the parties involved agreeing to a resolution. A conciliator is an independent person who assists the parties to reach agreement.

Term	Definition
Consent	<p>In relation to sexual harassment and sexual assault, has its legal meaning, which includes voluntary agreement (through words or conduct) to engage and continue to engage in an activity or act, and may be withdrawn at any time.</p> <p>For these Procedures, consent will not be taken to exist where the person:</p> <ol style="list-style-type: none"> <li>1. is under 16 years age;</li> <li>2. is asleep or unconscious;</li> <li>3. is incapable of consenting due to the effects of alcohol or another drug;</li> <li>4. submits to an activity or act because of force, fear of force or harm, threats or intimidation or an exercise of authority; or</li> <li>5. submits to an activity or act because of false or fraudulent representations about the nature or purpose of the act, or representation of identity.</li> </ol> <p>Consent only applies to each specific instance and type of sexual activity and not another instance or type.</p>
Disclosure	Is an option available under these Procedures to seek access to support, advice about options, and assistance but where the person is not seeking investigation or other action by the University in relation to the matter. Support will be provided to students and staff to make an informed choice about actions they wish to take, if any.
Discrimination	<p>Happens when a person or a group of people:</p> <ol style="list-style-type: none"> <li>1. is treated less favourably than another person or group because of a particular characteristic or attribute (or because they associate with another person or group with a particular characteristic or attribute) ('direct discrimination'); or</li> <li>2. where an unreasonable rule or policy, which applies to everyone has an unfair effect on a person or group, because they have a particular characteristic or attribute ('indirect discrimination').</li> </ol> <p>Protected characteristics or attributes include a person's age, breastfeeding, family responsibilities, gender identity or intersex status, impairment or disability, lawful sexual activity, parental status, political belief or activity, pregnancy, race, relationship or marital status, religious belief or activity, sex, sexuality, social origin, trade union activity, and irrelevant criminal or medical record.</p>
Frivolous	Complaints are complaints that have no serious purpose or value, and investigation would be out of proportion to the seriousness of the issues complained about.
Harassment and Harassing	Refers to behaviour that is offensive, humiliating or intimidating. It is a form of discrimination if it is based upon one of the characteristics or attributes referred to in the discrimination definition.
Parties to a Complaint	Include the complainant (the aggrieved person who was allegedly subjected to discrimination or harassment), and the respondent (the person or organisation about whom the complaint is made).
Respondent	Means a person whose conduct is the subject of a complaint or disclosure of sexual harassment, sexual assault, discrimination or harassment under these Procedures.
Sexual Assault	<p>Is any unwanted or forced sexual act or behaviour without consent. It covers a broad range of sexual activity. Sexual assault occurs when an offender:</p> <ol style="list-style-type: none"> <li>1. without lawful reason indecently assaults a person (eg groping, inappropriate touching of a sexual nature); or</li> <li>2. procures a person, without their consent, to commit an act of a sexual nature.</li> </ol>
Sexual Harassment	<p>Is any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances. It includes uninvited physical intimacy such as touching in a sexual way, uninvited sexual propositions, and remarks with sexual connotations. It can also include sexually offensive telephone calls, text messages, graphics, screen savers, posters, social media posts, emails or such communications via any other electronic media.</p> <p>Sexual harassment does not have to be deliberate or repeated to be unlawful.</p> <p>Some sexual harassment, such as sexual assault, indecent exposure and stalking is also a criminal offence.</p>
Third Party Reporter	Is a person other than the complainant who makes a disclosure or seeks advice about behaviours they have observed or become aware of.



Term	Definition
Trauma-informed	Refers to approaches and responses that demonstrate understanding and recognition of the impact of trauma, and emphasise physical, psychological and emotional safety, and the importance of empowerment and choice for those who have experienced sexual assault, sexual harassment, discrimination or harassment. Responses are designed to avoid causing further harm, trauma or distress to those who report allegations of sexual harassment, sexual assault or discrimination-related behaviour.
Vexatious	Complaints are complaints made in bad faith; they can hurt and disrupt another person's life in such a way that their career or study can be damaged and may result in psychological injury or financial cost. Vexatious complaints are a form of misconduct.
Victimisation	<p>Means subjecting or threatening to subject a person to some form of detriment because they have:</p> <ol style="list-style-type: none"> <li>1. lodged or proposed to lodge a complaint of sexual assault, sexual harassment, discrimination or harassment;</li> <li>2. provided information or documents to an internal investigation or an external agency;</li> <li>3. attended a conciliation conference;</li> <li>4. reasonably asserted their rights, or supported someone else's rights, under federal or state anti-discrimination laws; and/or</li> <li>5. made an allegation that a person has acted unlawfully under federal or state anti-discrimination laws.</li> </ol> <p>Such victimisation could include, for example, harassing or bullying the complainant or respondent, or making overt or implied threats about a person's academic or career progress.</p>

## Status and Details

<b>Status</b>	Current
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