

UMSU Prevention of Sexual Misconduct Policy

Effective date January 2025
Review Date January 2028
Policy Owner CEO

1. Purpose

- 1.1. This policy is intended to support UMSU in meeting its positive duty to eliminate sex-based discrimination, sexual harassment, and victimisation. We aim to:
 - 1.1.1. Provide clarity on what constitutes: sexual misconduct, including [Sexual Assault](#), [Harassment](#), and [Rape](#); what constitutes sex-based discrimination; and [Victimisation](#).
 - 1.1.2. Outline that sex-based discrimination and sexual misconduct are unacceptable at UMSU. Staff, elected student representatives, volunteers and contractors have a right to be treated with dignity and respect. This comes with the responsibility to treat others the same way.
 - 1.1.3. Outline how UMSU will take all reasonable and practical steps to create a safe working environment for staff, student representatives and volunteers.
 - 1.1.4. Ensure that responses to sexual misconduct are guided by [Trauma-informed](#) principles, are person-centred, and prioritise safety.
 - 1.1.5. Respect the rights of victim-survivors to speak about their experiences, subject to legal or other obligations.
 - 1.1.6. Encourage safe bystander intervention and [Reporting](#).

2. Scope

- 2.1. This policy applies to all staff, elected student representatives, volunteers, and contractors.
- 2.2. This policy applies to all activities and all people involved in those activities that take place:
 - 2.2.1. on UMSU premises or
 - 2.2.2. are undertaken in the course of UMSU's operations; or
 - 2.2.3. at work-related activities; and
 - 2.2.4. includes social contact (online or in person) with other UMSU staff, elected student representatives or volunteers outside of work hours.
- 2.3. The policy should be read in conjunction with the UMSU [Workplace Conduct Policy](#) and the UMSU [Complaints Policy](#).

3. Policy Statement

- 3.1. University students are over-represented as victim-survivors of sexual harassment and assault. As a student-led organisation that has historically been dedicated to campaigning for the prevention of sexual violence, we not only have legal responsibility but an ethical obligation to ensure that our internal processes are victim-centred and robust.
- 3.2. The guiding principles of this policy are:
 - 3.2.1. **Safety:** We take an individual and community approach to safety. We will balance the rights of all parties to a fair process with our positive duty to eliminate workplace sex-based discrimination, sexual misconduct, and victimisation.
 - 3.2.2. **Cultural Safety:** At UMSU we believe that everyone, regardless of culture, should be treated with respect and inclusion. UMSU aims to create a workplace where everyone can examine our own cultural identities and attitudes and be open-minded and flexible in our attitudes towards people from cultures other than our own. It also requires everyone to understand that their own values or practices are not always or only the best way to solve workplace problems.
 - 3.2.3. **Perpetrator Accountability:** UMSU will take victim-survivors seriously when they report and focus on the behaviour of the alleged perpetrator. If an investigation finds that a UMSU staff member, student representative, or volunteer has perpetrated sexual misconduct, we hold them accountable for their actions through disciplinary action.
 - 3.2.4. **Collaboration and Choice:** We will work with victim-survivors to respect their dignity of risk. At times, our ethical and legal obligations will conflict with victim-survivor choice. In those instances, we will work with victim-survivors to find a solution. If we cannot collaborate with victim-survivors, we will endeavour to explain our decisions to them.
 - 3.2.5. **Trustworthy processes:** UMSU will implement transparent, consistent, and timely processes for all parties and provide accessible resources and education to staff, student representatives, and volunteers.
 - 3.2.6. **Confidentiality and privacy:** UMSU will uphold victims' and survivors' rights to tell their stories. Any staff or student representative trained to respond to [Complaints](#) will understand their obligation to respect the privacy of all parties, the potential of violating this in a small organisation, and the safety risks to victim-survivors if their privacy is violated. UMSU may share information about matters to uphold individual and community safety.
 - 3.2.7. **Empowerment:** UMSU will educate our staff, student representatives, and volunteers on how they can be active [Bystanders](#) who recognise and safely respond to inappropriate behaviour. We will create safe processes that empower victim-survivors to raise concerns.
 - 3.2.8. **Intersectionality:** Holistically preventing and responding to sexual misconduct requires UMSU to acknowledge that power, privilege, and opportunity are created and maintained through social processes (i.e. racism, sexism, ableism, classism) and structural systems (i.e. systematic, institutionalised, laws, and policies) that shape experiences differently for people from varying sociodemographic backgrounds.

4. Sexual Misconduct

- 4.1. Sexual misconduct includes Sexual Harassment, Sexual Assault and rape. Sexual misconduct may be perpetrated electronically, via phone, text messages, email, websites, chat, online meetings, social media, games or other forums.
- 4.2. Sexual misconduct may also constitute criminal conduct under Australian law.
- 4.3. Sexual misconduct may take various forms, such as:
 - 4.3.1. sexual advances, requests for sex or repeated unwanted requests to go out on dates;
 - 4.3.2. sexually suggestive comments or jokes;
 - 4.3.3. insults or taunts of a sexual nature;
 - 4.3.4. intrusive questions or statements about someone's sex life;
 - 4.3.5. offensive comments on physical appearance, dress or private life;
 - 4.3.6. displaying posters, magazines or screen savers of a sexual nature;
 - 4.3.7. sending sexually explicit emails or text messages;
 - 4.3.8. inappropriate advances on social networking sites;
 - 4.3.9. accessing sexually explicit internet sites;
 - 4.3.10. wolf whistling (a distinctive 2-toned whistle sounded to express sexual attraction or approval of another person's appearance);
 - 4.3.11. unsolicited physical contact or unnecessary familiarity such as hugging, patting, or pinching;
 - 4.3.12. public display of nudity; and
 - 4.3.13. behaviour that may be considered to be an offence under criminal law, such as physical assault, indecent exposure, Rape, Sexual Assault, stalking or obscene communications.
- 4.4. A person can be subject to sexual misconduct even if the behaviour is not directed at them.
- 4.5. If someone does not object to inappropriate behaviour in the workplace at the time, it does not mean that they consent to the behaviour.
- 4.6. A single incident is enough to constitute sexual misconduct, it does not need to be repeated.

5. Victimisation

- 5.1. Victimisation is unlawful under anti-discrimination law and may also be unlawful discriminatory conduct under workplace health and safety legislation, and/or constitute Adverse Action under the *Fair Work Act 2009* (Cth).
- 5.2. Staff, student representatives, volunteers or contractors must not treat someone unfairly, harshly or subject them to reprisal due to them:
 - 5.2.1. Making a complaint of sexual misconduct;
 - 5.2.2. it is believed they might make a complaint of sexual misconduct;
 - 5.2.3. having assisted someone else make a complaint of sexual misconduct;
 - 5.2.4. refusing to do some act because it would amount to sexual misconduct or victimisation.

- 5.2.5. Engaging in safe bystander intervention
- 5.2.6. Providing information about a [Disclosure](#) or complaint of sexual misconduct
- 5.3. If a person believes they have been victimised they can make a complaint via the processes outlined in the Complaints Policy
- 5.4. Victimization may result in disciplinary action
- 5.5. Staff, elected representatives, and volunteers who are aware of victimisation should raise these concerns with the UMSU Human Resources Manager.

6. Sex-Based Discrimination

- 6.1. Harassment on the grounds of sex or discrimination is unlawful under both State and federal laws.
- 6.2. Examples of harassment on the ground of sex include:
 - 6.2.1. asking intrusive personal questions based on a person's sex;
 - 6.2.2. making inappropriate comments and jokes to a person based on their sex;
 - 6.2.3. displaying images or materials that are sexist, misogynist or misandrist;
 - 6.2.4. making sexist, misogynist or misandrist remarks about a specific person;
 - 6.2.5. requesting a person to engage in degrading conduct based on their sex.

7. Responsibilities under this Policy

- 7.1. UMSU is responsible for taking all reasonable steps are made to eliminate sexual harassment, harassment on the ground of sex or discrimination, and victimisation.
- 7.2. UMSU will ensure all staff, elected student representatives, volunteers and contractors understand what constitutes an act of sexual misconduct or victimisation and are regularly made aware of their obligations in relation to providing a workplace free from sexual misconduct and victimisation.
- 7.3. UMSU will treat all complaints seriously and confidentially and take immediate and appropriate corrective action required to ensure a safe workplace.
- 7.4. UMSU will provide regular guidance and education to staff, elected student representatives, and volunteers regarding sexual misconduct and inappropriate behaviour in the workplace.
- 7.5. All staff, elected student representatives, and volunteers:
 - 7.5.1. must comply with this and other UMSU Policies;
 - 7.5.2. are encouraged to address sexual misconduct if comfortable and safe to do so;
 - 7.5.3. are encouraged to raise any concerns about sexual misconduct or victimisation with the Human Resources Manager.
 - 7.5.4. who are bystanders or witnesses to sexual misconduct should treat those concerns confidentiality other than for the purposes of seeking support and reporting to the Human Resources Manager.
 - 7.5.5. must attend training arranged by UMSU on the issues covered by this policy.

8. Seeking Support and Advice and Making Disclosure

- 8.1. Individuals may seek advice or support from UMSU or external services prior to/ or without making a complaint.
- 8.2. UMSU has a network of trained [Contact Officers](#) made up of staff and elected student representatives who available as an initial contact point to support anyone who needs advice or wants to make a disclosure under this policy.
- 8.3. The Human Resources Manager is also available to provide advice to anyone needing assistance under this policy.
- 8.4. A list of on and off-campus support services including the university Counselling and Psychological Service (CAPS), other counselling and health services, and after-hours/crisis services are available on the UMSU Website.

9. Reporting or Making a Complaint

- 9.1. UMSU aims to treat all complaints regarding sexual misconduct or victimisation seriously, promptly, and as confidentially as is reasonably possible.
- 9.2. A Contact Officer, or the Human Resources Manager can be contacted for general advice as in 8.1 and 8.2 above, or to discuss any issue or to discuss any complaint or enquiry.
- 9.3. Reports and complaints will be dealt with in accordance with the UMSU [Complaints Policy](#).
- 9.4. There is no time limit for making a complaint under this policy.

10. Transparency, Confidentiality, and Use of Information

- 10.1. UMSU is committed to transparent processes under our complaint handling frameworks, and we will ensure transparency is balanced against the rights of individuals to privacy and confidentiality.
- 10.2. In collecting information regarding a disclosure, report or complaint, UMSU will comply with the UMSU [Privacy Policy](#) and the UMSU [Best Practice Guide to Data Collection](#) and the UMSU [Collection statement and consent mechanism templates](#).
- 10.3. In communicating status and outcomes of complaints under this policy, UMSU will do so in accordance with the UMSU [Privacy Policy](#).

11. Bystander Intervention and Reporting

- 11.1. UMSU will provide education and training to support action by anyone who witnesses or receives a disclosure of sexual misconduct.
- 11.2. Anyone who observes an incident of sexual misconduct or receives a disclosure at UMSU is encouraged to seek advice and report it under this policy.

12. University Grievances and Complaints

- 12.1. Where the alleged sexual misconduct concerns another student at the University community who is otherwise covered by the university's policies, a [Complainant](#) may elect to lodge a complaint under the University's [Sexual Misconduct Prevention and Response Policy](#) (MPF1359). This will be dealt with under the University's [Student Conduct Policy](#) (MPF1324).
- 12.2. Where the University investigates a grievance or complaint and shares information about findings of fact and disciplinary outcomes with UMSU, these will be dealt with subject to s.12 of the UMSU [Complaints Policy](#).

- 12.3. Where UMSU investigates a complaint under this policy and the complaint indicates that the University has already investigated the same incident under its [Sexual Misconduct Prevention and Response Policy](#) (MPF1359), UMSU may, with the consent of the Complainant and in accordance with the UMSU [Privacy Policy](#), seek information related to any findings of fact and disciplinary outcomes from the University, which will be dealt with subject to s.12 of the UMSU [Complaints Policy](#).
- 12.4. Where UMSU investigates a complaint under this policy and the University subsequently receives a complaint in respect of the same incident, UMSU may, with the consent of the Complainant, provide to the University information related to any findings of fact and disciplinary outcomes from the UMSU complaint process in accordance with the UMSU [Privacy Policy](#).

13. Other External Complaint Processes

- 13.1. Some forms of sexual misconduct, such as sexual assault and stalking, may constitute criminal activity. UMSU supports the right of anyone affected by this sort of behaviour to decide whether it should be reported to [Victoria Police](#).
- 13.2. In some cases, UMSU may need to report sexual misconduct incidents to Victoria Police in order to maintain safe workspaces or due to legal obligations.
- 13.3. Where the sexual misconduct concerns a child under 18, the reporting requirements under the UMSU [Child Safety Policy](#) will apply. This may include reporting to the police and to the Commission for Children and Young People.
- 13.4. Reports about online incidents can be made to the [Australian CyberSecurity Centre](#) or the [Australian eSafety Commissioner](#).
- 13.5. Additionally, complaints under this policy can be made at any time to the [Australian Human Rights Commission](#), or the [Victorian Human Rights and Equal Opportunity Commission](#).

| | |
|---|---|
| <p>Supporting Policy and Procedures</p> | <ul style="list-style-type: none"> • UMSU Alcohol Policy • UMSU Child Safety Policy • UMSU Complaints Policy • UMSU Conflicts of Interest Policy • UMSU Health and Safety Policy • UMSU Interaction Protocols Policy • UMSU Prevention of Prevention of Sexual Misconduct Policy • UMSU Privacy Policy • UMSU Resolution of Complaint Procedures • UMSU Resolution of Complaint Procedures – Investigation • UMSU Social Media Policy • UMSU Student Media Policy • UMSU Volunteer Policy • UMSU Workplace Conduct Policy |
| <p>Related documents</p> | <ul style="list-style-type: none"> • <i>Equal Opportunity Act 2010</i> (Vic) • <i>Sex Discrimination Act 1984</i> (Cth) • <i>Racial Discrimination Act 1975</i> (Cth) • <i>Disability Discrimination Act 1992</i> (Cth) • <i>Age Discrimination Act 2004</i> (Cth) • <i>Australian Human Rights Commission Act 1986</i> (Cth) • <i>Fair Work Act 2009</i> (Cth) • UMSU Constitution • UMSU Council Charter • UMSU Discipline Regulation • UMSU Publishing Regulations • UMSU Enterprise Bargaining Agreement or equivalent • UoM Sexual Misconduct Prevention and Response Policy (MPF1359) • UoM Student Conduct Policy (MPF1324) |
| <p>Responsibility for Implementation</p> | <ul style="list-style-type: none"> • CEO and Human Resources Manager (staff, elected student representatives and contractors) • Volunteering Manager (volunteers) |

| | |
|---------------------------|--|
| <p>Definitions</p> | <p>Rape has the definition provided under s. 38 of the <i>Crimes Act 1958</i> (Vic) – meaning a person intentionally sexually penetrated a person without their consent while being aware they were not consenting or might not be consenting, or without giving any thought to whether they were consenting; failing to withdraw from sexual penetration after becoming aware the other person was not consenting or might not be consenting; compelling a person to sexually penetrate the accused or another person; compelling a person to continue sexually penetrating the accused or another person.</p> <p>Sexual Assault has the definition provided under s. 40 of the <i>Crimes Act 1958</i> (Vic) – meaning a person intentionally touching another person who does not consent to the touching; and the touching is sexual; and the person touching does not reasonably believe that the other person consents to the touching. Touching can be ‘sexual’ because of:</p> <ul style="list-style-type: none"> · the area of the body that is touched or used in the touching, including (but not limited to) the genital or anal region, the buttocks or the breasts; · the fact that the person doing the touching seeks or gets sexual arousal or sexual gratification from the touching; or · any other aspect of the touching, including the circumstances in which it is done. <p>Sexual Harassment has the meaning provided under the <i>Sex Discrimination Act 1984</i> (Cth) – it occurs if a person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person; or engages in any unwelcome conduct of a sexual nature in relation to the other person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the other person would be offended, humiliated or intimidated.</p> <p>Bystanders are individuals who observe sexual misconduct firsthand or are subsequently informed of the incident.</p> <p>Complaint is an implied or express statement of dissatisfaction where a response is sought, reasonable to expect or legally required.</p> <p>Complainant is an individual, organisation or representative who makes a complaint.</p> <p>Disclosure is where an individual confides in someone else that they have been the victim of sexual harm, or concerning, threatening or inappropriate behaviour.</p> <p>Reporting is where an individual provides a formal account or statement about the sexual harm to UMSU or the University.</p> <p>Trauma-informed means, among other things:</p> <ul style="list-style-type: none"> · intending to do no harm and avoiding inadvertent re-traumatising of the individual · using a person-centred approach which harnesses a person’s inherent strengths, autonomy and dignity, maximising their choices and control over their lives · understanding the effects of negative stress on the brain (which can impair listening, decision making and self-regulation) and body <p>Victimisation means when someone is treated badly or unfairly because they have made a complaint about se-discrimination, or sexual misconduct, it is believed they intend to make a complaint, or they've helped someone else to make a complaint.</p> |
| <p>Status</p> | <p>FINAL – in force</p> |
| <p>Approval</p> | <p>CEO and Students’ Council</p> |

Change Table

| Version # | Issue Date | Amendment Details | Approval Date | Approved By |
|-----------------------|---------------|-------------------|-----------------|-------------------------|
| 1. Consultation Draft | November 2024 | First iteration | | |
| 2. Final Policy | January 2025 | - | 17 January 2025 | Students' Council & CEO |