HARMFUL SEXUAL BEHAVIOUR POLICY

Section	Health, Safety and Wellbeing
Contact	DVC Students and Global Engagement and the DVC People and Culture
Last Review	April 2021
Next Review	April 2023
Approval	SLT 21/05/63
Effective Date	May 2021

Purpose:

Sexual violence is a serious problem that needs attention and intervention throughout society and within institutions. Harmful sexual behaviours have a significant impact on those who experience it, their friends and family members, and on those who work closely with them as supporters, advocates, and educators and on those who are accused of or found to have engaged in this behaviour.

The purpose of this policy is to outline Massey University's commitment to reducing harmful sexual behaviours through promoting a safe campus, healthy relationships, and a supportive culture, which encourages reporting of incidents and ensures that they are dealt with sensitively and as per already existing policies or regulations.

We recognise that it can be distressing for all those affected by a sexual violence disclosure; this policy aims to ensure that all parties are treated with dignity and respect and are provided with appropriate support and guidance.

Definitions:

The terms 'sexual violence' and 'harmful sexual behaviours' are used interchangeably throughout this policy to order to make clear the breadth of behaviour covered and to utilise a well-defined and researched term.

For the purpose of this policy and its implementation Massey University adopts the World Health Organisation definition of sexual violence (Krug et al, 2002) as a term that encompasses the spectrum of sexual acts and behaviours that are harmful.

Sexual Violence: Any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic or otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.

Coercion can encompass:

- *varying degrees of force.*
- *psychological intimidation.*
- *blackmail.*
- *threats (of physical harm or of not obtaining a job/grade etc.).*

In addition, sexual violence may also take place when someone is not able to give consent – for instance, while intoxicated, drugged, asleep or mentally incapacitated.

- Krug, E.G. et al., eds. (2002). World report on violence and health. Geneva, World Health Organization

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For clarity the University also notes that:

- Sexual violence need not include physical violence.
- Sexual violence can occur within relationships.
- Sexual violence can occur through email, text, messaging, social media posts and other forms of electronic communication.
- Anyone can be a victim of sexual violence regardless of their age, sex, gender, status, culture, ability, or sexuality.
- Consent to a sexual act should be clear and obvious. The fact that a person does not say 'no' to, or does not physically resist, a sexual act does not of itself mean that they consent to it.
- Any person is free to withdraw their consent at any time prior to, or during a sexual act, for any reason.

Harmful sexual behaviour may include sexual "harassment", all forms of which are not tolerated by the University, and which is defined further below.

"Sexual Harassment":

- It is unwanted attention of a sexually orientated nature.
- It may include an implied or express promise of reward for complying with a sexually orientated request and/or
- An implied or expressed threat of reprisal for not complying with a sexually orientated request.

Examples of sexual harassment include but are not limited to:

- Offensive verbal comments of a sexual nature.
- Sexual or smutty jokes.
- Repeated comments or teasing about someone's alleged sexual activities or private life.
- Persistent, unwelcome social invitations, telephone calls or emails from colleagues at work, at the University, or at home.
- Following someone home from work or from the University.
- Offensive hand or body gestures.
- Leering or ogling.
- Unwelcome physical contact e.g., patting, pinching, touching, or putting an arm around another person.
- Provocative visual material in either hardcopy or electronic media.

Nothing in the definition above shall apply to the use or presentation of language or materials, which is reasonably required for bona fide educational purposes but wherever possible sexually explicit academic material should be accompanied with an appropriate advanced noting.

Commitment to Prevent Sexual Violence

The University considers all sexual violence unacceptable and will not tolerate sexual violence in any form. Massey University is committed to creating and maintaining a safe environment for the entire Massey community, which is free from harmful sexual behaviour. Power imbalances can occur within tertiary institutions and as such, the University will actively use good practice which incorporates service-user voices, current research, and advice from experts working in the sexual violence sector in Aotearoa New Zealand to take steps to eliminate or prevent any environment or culture in which this form of harm can occur.

These steps will include, but are not limited to, addressing sexual violence and rape culture through support to those who disclose it, awareness, education, training and prevention programs, the appropriate handling of reports or complaints of sexual violence incidents, and fostering and promoting a culture of consent.

The University also commits to working with all parties involved, from the outset; during any processes invoked; and irrespective of the outcomes of those processes, including – where appropriate – opportunity for a party to better understand the impact of their actions

Safety and Wellbeing and Cultural Sensitivity

A person who has experienced sexual violence can elect to make a disclosure of their experience and/or make a formal complaint. Making a disclosure will not prevent a person subsequently making a formal complaint.

The safety and wellbeing of the person disclosing or making a formal complaint of sexual violence is a priority of the University.

Massey University aspires to be a Te Tiriti-led institution. As such culturally appropriate response to a disclosure or complaint will be made available.

Responding to Disclosures of Sexual Violence

The University will take a survivor led approach when responding to a disclosure and will provide support and assistance to that person, who includes, but is not limited to:

- access to information about appropriate emergency health, counselling, security, and accommodation providers.
- referral to internal and external support services.
- information about, and support navigating, the University's academic special consideration process if a student wishes to apply.
- Information about, and support navigating, the University's leave provisions.
- information about the available reporting options, including reporting to Police and making a formal complaint to the University.

The University will acknowledge and consider the needs of our diverse community members in its sexual violence response procedures and support systems. It also acknowledges the need to review prevention and support measures following any incidents to continually improve practices and procedures

Responding to Formal Complaints of Sexual Violence

University community members who disclose an incident of sexual violence have agency over any resulting actions. This includes making a formal complaint to the Police, regulatory agencies and/or making a formal complaint to the University. Support and assistance will be provided if someone wishes to make a formal complaint to the University including but not limited to:

- information about the University's formal report and misconduct investigation processes, including information about principles of natural justice that apply to any investigation
- assistance with navigating the University's formal report and misconduct investigation processes.
- pastoral support

Where a formal complaint of sexual violence, as per the definition above, is lodged with the University by an affected member of the University community these complaints will be managed by specifically trained individuals using:

- Where the respondent is a student, the Code of Student Conduct and, the Student Disciplinary Regulations or.

- Where the respondent is a staff member, the Policy on Staff Conduct, the Harassment and Discrimination Resolution Procedure and the disciplinary provisions set out in their employment agreement.
- Where the respondent is a contractor, supplier or affiliate, provisions available within the associated contract.

Support will be provided to the respondent of a formal complaint as part of the resulting process undertaken. This includes procedural and pastoral support.

Making a formal complaint to the University does not prevent the matter being considered a criminal act that may be independently subject to police investigation and subsequent prosecution.

Audience:

All staff and students, contractors of the University, visitors to the University and the wider community. As such this policy is co-owned by the DVC Student and Global Engagement and the DVC People and Culture.

Relevant legislation:

Crimes Act 1961
Health and Safety at Work Act 2015
Employment Relations Act 2000
Human Rights Act 1993

Related procedures / documents:

Health, Safety & Wellbeing Policy
Student Disciplinary Regulations
Staff Conduct Policy
University Complaints Procedure (under development)
Harassment and Discrimination at Work Policy
Harassment and Discrimination Resolution Procedure

Document Management Control:

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