

UTS Insearch (Student) Sexual Assault and Harassment Policy

POLICY PURPOSE

This Policy pertains to incidents of student sexual assault and harassment occurring at, or in connection with, UTS Insearch as per the policy scope and sets out the principles for:

- (1) Preventing sexual assault and harassment,
- (2) receiving disclosures and complaints of sexual assault and harassment,
- (3) review by UTS Insearch of any such disclosures and complaints,
- (4) ensuring safety of complaints and their supporters, and
- (5) accountability by those who are found to be in breach of the **Student Charter** or **Insearch Code of Conduct** in relation to sexual assault or harassment

All students, staff and affiliates are required to treat others with dignity, courtesy and respect and to cooperate fully in implementing this policy and the accompanying **Sexual Assault and Harassment Response Procedure**.

This Policy underpinned by the following UTS Insearch principles:

- Courage** we will do what is right - even when an easier option is available to us
- Integrity** we will do what we say we will do and be as we say we are, we will honour the spirit and not just the letter of our agreements
- Honesty** we will be open and candid in our dealings; playing an active role in enabling people to make well-informed decisions
- Respect** we will acknowledge the intrinsic dignity of all and encourage a diversity of people and ideas to enrich the organisation as a whole

SCOPE

This policy applies to:

- All UTS Insearch **staff** and **affiliates**.
- All UTS Insearch **students**, past and present, and **volunteers**.
- All UTS Insearch students residing in **Student Residential Accommodation**, **Homestay Accommodation**, and to **Homestay Providers** and **Hosts**.
- UTS Insearch provision of education and services to students; including all aspects of teaching, assessment

- On-campus or off-site wherever and whenever students and volunteers may be as a result of their studies with UTS Insearch.
- Students, volunteers, staff and affiliates' treatment of other students, volunteers, staff, affiliates; indeed, all members of the public encountered in the course of their duties or studies at UTS Insearch.
- Digital environments including online classrooms.
- Activities, locations or events unrelated to UTS Insearch, but both complainant and alleged offender are students or staff.

Note: All offshore UTS Insearch staff must abide by the UTS Insearch Code of Conduct. They also need to adhere to the relevant laws in their own regions.

DEFINITIONS are set out at the end of this policy.

POLICY PRINCIPLES

Overall:

Insearch Limited is committed to providing a safe, respectful and inclusive learning environment that is free from sexual assault and harassment.

Insearch understands that sexual assault and harassment:

- are symptoms of inequality,
- is contrary to the **UTS Insearch Student Charter** and **UTS Insearch Code of Conduct**,
- is a behaviour choice that is disrespectful and/or unlawful,
- is a serious form of student or staff misconduct.

Students who experience sexual assault or harassment are encouraged and will be supported to make a disclosure or complaint.

The safety and recovery of a person who has experienced sexual assault or harassment is the highest priority.

When a disclosure or complaint of sexual assault or harassment is made UTS Insearch will respond in a trauma sensitive and complainant centred manner.

Principle	Responsible
BUILD AN ENVIRONMENT THAT IS SAFE	
<p>1. Build an environment that is safe by:</p> <p>1.1 Preventing sexual assault and harassment through implementing evidenced based prevention programs that:</p> <ul style="list-style-type: none"> • Increase awareness of the drivers, behaviours, attitudes, social practices and cultural norms that create an environment where sexual assault and harassment occurs, • Increase awareness of the UTS Insearch definitions of, and approaches to, preventing sexual assault and harassment, • Work with participants to develop skills that oppose these behaviours, and • Support ethical bystander and ethical decision-making practices. <p>1.2 Supporting Disclosures and Complaints by building a culture that understands:</p> <ul style="list-style-type: none"> • Everyone has the basic human right to live, study and work without experiencing sexual assault or harassment, • Sexual assault and harassment can happen to anyone, regardless of age, gender, identity, ability or sexuality, • Compassion, belief and empathy in responding to disclosures and complaints is critical, and • The responsibility for sexual assault and harassment is always with the offender. <p>1.3 Building trust by disseminating information through multi-media options regarding the UTS Insearch Student Sexual Assault and Harassment Policy and Procedures including:</p> <ul style="list-style-type: none"> • UTS Insearch sexual assault and harassment disclosure and complaints process, • The UTS Insearch Student Charter and Code of Conduct, • Continuous cycle of consultation and review of policy and procedures, and • Non identifying reports of policy and procedure implementation and quality improvements. 	<p>Welfare Team Leader/All UTS Insearch Staff and Affiliates</p>
<p>2. Ensure a Trauma and Rights Based Response to Disclosures and Complaints of Sexual Assault and Harassment by:</p> <p>2.1 Prioritising the welfare of those impacted by sexual assault and harassment and ensuring that support is appropriate, accessible and offered in a way that is trauma responsive;</p>	<p>Executive Team/ All Insearch Staff and Affiliates</p>

Principle	Responsible
<p>2.2 Ensuring that the person who is making a disclosure or complaint;</p> <ul style="list-style-type: none"> • has immediate access to their choice of counselling and support options, • is fully informed of the disclosure and complaints process and their options, • choices are accepted and respected, • has access to an interpreter and/or other support as necessary, • knows who will have access to their information, • is aware of and consulted at each step of the process, and • informed of the outcome with reference to any legislative requirements. <p>Note: <i>a person may choose to provide information but not want to engage further or they may choose to withdraw their complaint. This choice will be respected. However, the UTS Insearch Welfare Team will review the information provided and act, as far as possible, in accordance with the disclosure and complaints process.</i></p> <p>2.3 Ensuring that there is no retaliatory or other adverse action taken or threatened against anyone because of their involvement in making a disclosure or complaint of sexual assault or harassment.</p>	
<p>3. Ensure Confidentiality</p> <p>UTS Insearch understands that the impacts of sexual assault and harassment are individual to the person. A common impact can be a breach of trust. Therefore, maintaining the confidentiality of a person who discloses or makes a complaint is paramount. UTS Insearch will ensure:</p> <p>3.1 Systems and/or processes that maintain documentation confidentiality are utilised.</p> <p>3.2 UTS Insearch personnel engaged in the disclosure or complaints process, the complainant and the person or persons against whom a complaint has been made will all be held accountable to strict confidentiality requirements during and in some instances post the conclusion of the complaints process.</p> <p>Note: Post the complaints process the complainant will not be required to continue to maintain confidentiality about the event/s that lead to the complaint, the complaints process or the outcome. The exception will be if there is criminal action pending. In such circumstances the complainant will be requested to abide by the direction of the Police. If post the complaints process the complainant chooses to discuss any matters in relation to their experience, they will be counselled to not make public the name of the person or persons or other identifying information about whom the complaint was made without prior legal</p>	<p>Executive Team/ All UTS Insearch Staff and Affiliates/ Chair HSOC</p>

Principle	Responsible
<p>advice. The person or person/s against whom the complaint was made will be required to maintain confidentiality post the conclusion of the process.</p> <p>3.3 Exceptions to 3.2 will be where a person is accessing support or advice from a professional, where the Chairperson of the Health Safety Oversight Committee (HSOC) provides written permission, where there is a duty of care/risk of harm issue to self or others or a legal requirement,</p> <p>3.4 Non identifying reports will be made available to the UTS Insearch community for the purposes of building trust and promoting the UTS Insearch response to sexual assault and harassment.</p>	
<p>4 UTS Insearch Response to Disclosures and Complaints It is important that UTS Insearch ensure a trauma and rights-based response to disclosures and complaints of sexual assault and harassment.</p> <p>The purpose of the response to a disclosure or complaint of sexual assault and harassment is to:</p> <ul style="list-style-type: none"> • re-establish a safe environment for the person who has experienced the sexual assault and/or harassment, and • hold those who choose to engage in sexual assault and/or harassment accountable for their actions. <p>4.1 Where a disclosure or complaint of sexual assault or harassment is made to the UTS Insearch Welfare Team, in addition to the requirements in 2.2, the Team will;</p> <ul style="list-style-type: none"> • be transparent about the process including who will participate and what their role will be, and • provide time frames for completion of tasks. <p>4.2 Any person who has experienced sexual violence will be informed about their right to report the crime to Police. UTS Insearch will fully support the person to take those actions and cooperate with Police in their investigations.</p> <p>4.3 Any person who has experienced sexual harassment will be informed about their right to make a complaint to the Human Rights Commission. UTS Insearch will fully support the person to make the report and cooperate with the commission in their investigations.</p> <p>4.4 Any person who has experienced sexual assault or harassment will be informed about their right to lodge a complaint with the Tertiary Education Quality & Standards Agency (TEQSA). UTS Insearch will fully support the person to make the report and cooperate with the</p>	<p>Executive Team/ Registrar/All UTS Insearch Staff and Affiliates</p>

Principle	Responsible
<p>agency in their investigations.</p> <p>In relation to points 4.2, 4.3 and 4.4 above, with the complainant's consent, the Registrar will undertake a review of the information provided where a student has breached the Student Charter; and an internal HR investigation will be undertaken where a staff member has breached the UTS Insearch Code of Conduct and appropriate disciplinary will be taken.</p> <p>4.5 Disciplinary Action and Sanctions (Students)</p> <p>The Registrar will review the information gathered against the student, or the WHS Committee will review the information gathered against a staff member. If, on the balance of probabilities, it is concluded that a breach of the Student Charter or a breach of the Code of Conduct has occurred the following may occur in relation to the person who has caused the breach:</p> <ul style="list-style-type: none"> • Further education / cultural change initiatives • Providing a written caution • Referral to a specialised behaviour change counselling service • Make changes in contractual arrangements • Dismissal • Suspension from UTS Insearch • Withholding a qualification • Exclusion from UTS Insearch or expulsion <p>4.6 Procedural fairness</p> <p>In reviewing a complaint against the UTS Insearch Student Charter or Code of Conduct the principles of Natural Justice will apply.</p>	
<p>5 Policy Review</p> <p>Policy, Procedure and processes will be reviewed annually, or after each of the first six disclosures or complaints under this Policy in order to identify and implement quality improvements.</p>	<p>Head of Student Services</p>

DEFINITIONS

<p>Affiliates</p>	<p>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.</p>
<p>Complaint</p>	<p>In this policy, the formal provision of written information by a person who has experienced sexual assault or harassment to the UTS Insearch Welfare Team.</p>

Consent	<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"> • do not have the capacity to consent due to mental or physical impairment, • are asleep or unconscious, • are significantly affected by alcohol or other drugs, • are threatened, forced or afraid, • are restrained against their wishes, • are tricked or mistaken about the nature of the act, or who the other person is, • are tricked into thinking the other person is married to them or feel forced due to the position of authority by another person. <p>A person under 16 years cannot consent to sexual activity.</p> <p>Adapted from Youth Law Australia.</p>
Disclosure	<p>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.</p>
Ethical Bystander	<p>In this policy context - a person who has knowledge about an incidence of sexual assault or harassment and makes a disclosure or complaint</p>
Natural Justice	<p>A duty to act fairly, where bias that may influence decision making is known, and there is a fair hearing offered to all parties.</p>
Retaliatory Action	<p>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.</p>
Sexual Assault	<p>Sexual assault - means engaging in sexual acts of a penetrative 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>Sexual Touching and Sexual Acts 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>Sexually Explicit Photos or Videos – is creating or distributing sexually explicit or intimate photos or videos of a person without their consent or threatening to do this.</p>
<p>Sexual Harassment</p>	<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"> • comments about a person's private life or the way they look • sexually suggestive behaviour, such as leering or staring • brushing up against someone or hugging • sexually suggestive comments or jokes • displaying offensive screen savers, photos, calendars or objects • repeated unwanted requests to go out • requests for sex • sexually explicit posts on social networking sites • insults or taunts of a sexual nature • intrusive sexually suggestive questions or statements about a person's private life • sending sexually explicit emails or text messages • inappropriate advances on social networking sites • accessing sexually explicit internet sites <p>A single incident constitutes sexual harassment.</p> <p>Lack of objection to the behaviour does not mean consent can be assumed.</p>
<p>Students</p>	<p>Those currently enrolled in courses offered by UTS Insearch including those who have enrolled but not yet commenced their studies and are onshore.</p>
<p>Volunteers</p>	<p>Current students or Alumni of UTS Insearch who volunteer to support current students across various events, activities and clubs.</p>
<p>Workplace</p>	<p>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.</p>

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 Response Procedure

UTS Insearch Code of Conduct

UTS Insearch Student Charter

UTS Insearch Prevention of Discrimination, Harassment and Bullying Policy

UTS Insearch Critical Incident Policy


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

APPROVAL		
Signature: 		
Position title: Managing Director		Date: 14 July 2020
Policy Title	UTS Insearch (Student) Sexual Assault and Harassment Policy	
Executive	Chief Operating Officer	
Manager	Head of Student Services	
Policy ID	PO/OPS/06/20	
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