

SEXUAL HARASSMENT GUIDELINES

These Guidelines are provided for the benefit of staff and students of the University and members of the public who have a concern about sexual harassment at or within the University, or any services offered by the University. These Guidelines should be read in conjunction with Southern Cross's [Code of Conduct](#) and [Harassment, Bullying and Discrimination Prevention Policy](#)

What is Harassment?

Anti-discrimination law defines harassment as any sort of behavior which you do not want; offends, humiliates or intimidates you; and creates a hostile environment.

In NSW, it is against the law to harass you because of your: sex; pregnancy; breastfeeding; race (including colour, nationality, descent, ethnic or ethno-religious background); age; marital or domestic status; homosexuality (actual or perceived); disability (actual or perceived, past, present or future); transgender status (actual or perceived); or carers' responsibilities (actual or presumed).

In general, harassment is only against the law if it is done by someone aged 16 or over.

What is Sexual Harassment?

Anti-discrimination law ¹ defines sexual harassment as: unwanted sexual advances, or unwelcome requests for sexual favours; or other unwelcome conduct of a sexual nature; and in the circumstances, a reasonable person would have expected you to be offended, humiliated or intimidated by this behaviour.

Sexual harassment is a type of sex discrimination. The Sex Discrimination Act makes it unlawful for a person to sexually harass another person in employment, education, the provision of goods and services and accommodation.

Sexual harassment is not interaction, flirtation or friendship which is mutual or consensual.

Identifying Sexual Harassment

Sexual harassment can take many different forms – it can be obvious or indirect, physical, visual, verbal or non-verbal, repeated or one-off and perpetrated by and against people of any gender.

Examples of sexual harassment² may include:

Physical

- deliberate and unnecessary physical familiarity including staring or leering at a person's body
- unwanted and unwelcome physical contact such as patting, pinching, fondling, or brushing against
- any behaviours which are also criminal offences e.g. sexual assault, indecent exposure, stalking

Verbal

- insults or taunts of a sexual nature
- suggestive comments or smutty 'jokes' (sexist or homophobic / transphobic);
- innuendo, sexual provocative remarks, or derogatory comments about a person's physical appearance, inferences of sexual morality or tales of sexual performance;
- requests for sex or repeated unwanted requests to go out on dates, especially after prior refusal;
- demands/requests for sexual favours, gestures or body movements of a sexual or intimidating nature;
- intrusive, offensive statements or inquiries into one's private life or about one's sexuality

¹ [Sex Discrimination Act 1984 \(Cth\)](#) and the [NSW Anti-Discrimination Act 1977](#)

² <https://www.humanrights.gov.au/our-work/sex-discrimination/guides/sexual-harassment>

Power-based

- use of sexist or patronising language, particularly addressed at subordinates, e.g. sweetheart, pet
- sexual coercion by offering gifts or rewards e.g. favourable assessment, opportunities
- using threats of penalties to secure sex e.g. unfavourable assessment, withholding, marginalisation
- persistent, unwelcome suggestions demands or even subtle pressures of a sexual nature

Via Social Media / IT / Communications

- unwanted or sexually explicit phone calls, texts, e-mails, voice mails
- distributing sexually explicit internet sites
- inappropriate screen savers (words & images)
- displaying or distributing sexually graphic material, such as flyers, posters, calendars, cartoons

Work and Study

Sexual harassment at work is unlawful and can be committed by an employer, work colleague or other people in a working relationship with the victim. Sexual harassment can also happen where a work environment or workplace culture are sexually charged or 'hostile', even if the conduct is not directed at any particular employee.

Sexual harassment in employment extends to 'work-related environments' including, for example, work Christmas parties, off site work functions and after-parties, work sporting events, conferences and business trips, training courses and official dinners.

Although a person who sexually harasses another is primarily responsible for their behaviour, employers can also be held responsible for sexual harassment by their employees. This is called 'vicarious liability'. The University understands its responsibility to take all reasonable steps to prevent sexual harassment in employment, such as implementing a sexual harassment policy and providing training or information on sexual harassment. Southern Cross's policy can be found [here](#).

Relationships between staff or between staff and students

Southern Cross's [Personal Relationships Policy](#) is in place to guard against conflicts of interest. The University recognises that relationships may change in nature from initially professional to consensual sexual relationships and this change may need to be disclosed and adjustments made. Personal relationships between staff and students risk serious difficulties from the unequal power base and difficulties maintaining appropriate boundaries between professional and personal life.

It is important that sexual conduct, even if it is consensual, does not create an unpleasant and sexualised work and study environment for others, as this could be deemed sexual harassment.

It is also important to note that having been in a consensual relationship does not preclude sexual harassment occurring following the end of that relationship.

Southern Cross will ensure that all complaints of sexual harassment are addressed with care.

Consequences of Sexual Harassment

Sexual harassment in work and study can have serious psychological, emotional and even physical consequences for the harassed individual as well as for others who experience it as bystanders. These may include:

- anxiety, fear and distress (of future incidents or feelings of having to drop out or leave)
- an unpleasant and unwelcome environment which reduces work and study performance
- ill-health (sleep disorders, stress, depression, headaches), absenteeism and distraction
- work/study places disrupted by sexual harassment even for those not directly involved
- low morale and demoralised staff and students
- personal and organisational liability

Why are people often hesitant to report sexual harassment?

Measures are in place at the University to address complaints of sexual harassment. People often put up with incidents of sexual harassment, or delay reporting it, for the following reasons:

- fearing the situation will become worse or that there will be reprisals at work or in study;
- misplaced feelings of guilt that something they did encourages the behaviour;
- not wanting to be seen as a troublemaker;
- no adequate or trusted complaint procedure;
- distrust of management;
- wanting to fit in;
- not trusting their own judgement;
- low self-esteem;
- social conditioning;
- power imbalances;
- feeling harassment is a 'normal' part of the work/study environment.

What are the benefits of reporting incidents of sexual harassment?

- expert help and support is provided in managing the situation;
- the offending person is more likely to stop and change their behaviour;
- other people experiencing sexual harassment may be encouraged to come forward;
- persistent patterns of behaviour may be identified and responded to.

Protections for the person reporting – understanding victimisation

If the person reporting is treated badly or 'victimised' because a sexual harassment issue is raised (or intended to be raised), or if a complaint is not taken seriously, a complaint of victimisation may also be lodged.

Victimisation is against the law. It can also be a criminal offence. Victimisation is taken very seriously by the University. The initial complaint of harassment need not have to be upheld for a victimisation complaint to succeed.

[Victimisation](#) means subjecting or threatening to subject a person to some form of detriment because they have:

- lodged, or is proposing to lodge, a complaint of discrimination or harassment;
- provided information or documents to an internal investigation or an external agency;
- attended a conciliation conference;
- reasonably asserted their rights, or supported someone else's rights, under federal anti-discrimination laws;
- made an allegation that a person has acted unlawfully under federal anti-discrimination laws.

What to do if you are feeling sexually harassed?

Any person, who believes they have been sexually harassed, should not ignore the behaviour. The earlier the situation is addressed the more likely it is to be resolved. Complaints can be made informally and formally.

It is recommended to keep comprehensive notes of incidences (what happened / dates / times / places / details of witnesses) and any relevant documentation.

Informally, it is recommended to attempt to solve the problem as close to the source as possible. If you consider the behaviour is not serious but nonetheless want it to stop, and you feel the situation is safe:

1. Speak with the offending person directly.
 - be specific about which behaviours you consider offensive (they may not realise they have offended you)
 - tell them that these behaviours are unwelcome/unacceptable and that you want them to stop
 - let them know that their behaviours are a breach of University policy
2. If you are not comfortable speaking with them directly, or you are dissatisfied with their response and the behaviour continues, know that there are staff members in every area of the University who can help you.

3. Contact the specialist sources of assistance at Southern Cross:

For STUDENTS

- (i) Email or call the [Complaints Assistance Officer](#) (02) 66203849 complaints@scu.edu.au
- (ii) Email or call an [Equity and Diversity Contact](#) (staff members who offer staff and students assistance with a range of equity and diversity matters).
- (iii) Contact [Your Student Advocate](#) (see below for campus numbers)
- (iv) International students can also contact [SCU International](#)

For STAFF

- (i) Contact HR Services (02) 6620 3667 Level 2, F Block Lismore Campus
- (ii) Email or call an [Equity and Diversity Contact](#) (staff members who offer staff and students assistance with a range of equity and diversity matters).

4. Refer to the relevant policies and procedures

For Staff

- [Complaint Policy – Staff](#), [Complaint Procedure – Staff](#)
- [Code of Conduct](#)

For Students

- Reports about another student are dealt with under the [Rules – Student Academic and Non-academic Misconduct](#) policy
- [Complaints Policy – Students and Members of the Public](#) (which includes procedures).
- [Code of Conduct](#)

The Head, Equity & Diversity can also offer confidential support and advice to both staff and students

<https://www.scu.edu.au/engage/equity-and-diversity/contacting-us/>

Complaint Policies and Procedures (for staff, students and members of the public)

The [Complaint Policy – Staff](#), the [Complaint Procedure – Staff](#) and the [Complaints Policy for Students and Members of the Public](#) (which includes procedures) provide processes for resolving complaints so that work and study related concerns are managed fairly, sensitively and in a timely manner. These policies apply to employment and education related complaints arising from issues including, but not limited to harassment (including sexual), bullying and discrimination. The policies provide informal and formal processes for addressing complaints.

Complaints are treated seriously, expeditiously, sensitively and as close as possible to their source having due regard to procedural fairness, confidentiality and potential for victimisation. It is recommended that any concerns be raised as soon as possible after the incident relating to the complaint has occurred.

Responsibility of Managers and Supervisors

All managers and supervisors are accountable to ensure compliance with the University's Equity and Diversity policies and procedures and should do the following:

- create and promote an environment free of harassment and discrimination;
- comply with state and federal legislation on discrimination and equal employment opportunity;
- model appropriate behaviour;
- treat all complaints seriously and take immediate action to resolve complaints expeditiously;
- seek assistance from the [Complaints Assistance Officer](#), the Head, Equity and Diversity (equity@scu.edu.au) or HR Services (hr@scu.edu.au) if you do not feel you are best situated to deal with the complaint.

Responsibility of All Staff Members

- comply with the University's policies and procedures;
- the University values respect - treat colleagues and students with respect;
- take time to think before you act;
- if you suspect your behaviour may be offensive or inappropriate, check it out by asking if it is offensive. If you are offending someone else, stop and apologise;

- if you need clarification of the University's Equity and Diversity policies and procedures, contact the Head, Equity and Diversity or your supervisor;
- offer support to anyone who is feeling harassed and guide them to appropriate support;
- maintain confidentiality if they provide information of a complaint. Information should only be provided to those who are legitimately involved in the process of resolving the complaint. Failure to do so could result in defamation action.

Key Points to Remember about Sexual Harassment

Welcome behaviour:

Sexual harassment is not based on mutual attraction or private, consenting friendships (sexual or otherwise). If the interaction is consensual, welcome and reciprocated, it is not sexual harassment.

Sexual Harassment conduct can take many forms, for example, it can be

- physical (unwelcome touching)
- visual (leering, hostile materials such as posters/calendars)
- virtual (through social media)
- verbal (comments, mocking, 'jokes', innuendo)
- non-verbal (gestures, movements)

Sexual harassment can happen to people of any sex or gender identity.

Sexual harassment is not behaviour that only affects women. Sexual harassment is a form of sex based discrimination and is prohibited irrespective of a person's sex.

Sexual harassment does not need to be directed at a particular individual:

Sexual harassment does not need to target an individual. Sexual harassment can occur when a person feels offended by virtue of artwork, posters, calendars or screen savers/internet sites in the work and study environment, or by over-hearing a particular conversation or being part of a group email or discussion.

A public display of pornography (especially when it is directed at particular individuals) ranging from material that might be considered mildly erotic through to material that is sexually explicit could constitute sexual harassment.

A person can feel sexually harassed by virtue of a single incident:

Offensive behaviour does not necessarily need to be repetitive or ongoing to constitute sexual harassment. Sexual harassment may occur as a single incident or a series of incidents.

Intention is irrelevant:

By law, it is irrelevant whether or not the inappropriate behaviour was intended to offend. The person being subjected to the behaviour is the one who determines whether it was welcome or unwelcome. In applying this subjective 'reasonable person' test, the law recognises that behaviour which offends one person may not offend another. People from different cultural backgrounds may find certain behaviours offensive. The basis of the subjective test is respecting the right of individuals to react differently.

Sexual Harassment can constitute a criminal offence:

Some forms of sexual harassment can be criminal offenses, for example, sending obscene items through the mail or making nuisance phone calls can be criminal offences. Actual or attempted indecent assault or rape, are serious criminal offences.

Sexual Harassment can occur outside the University setting:

If the offensive behaviour occurs in an off campus setting, it can still constitute sexual harassment, for example, at end of year University parties or after-parties, off site University functions, University sporting events, conferences and business trips, dinners or training courses. An incidence of harassment can occur in a completely non-University setting (for instance on social media) and still potentially be considered by the University under the [Harassment, Bullying and Discrimination policy](#) on the basis that the people are known to each other through the University and are required to interact with each other in the course of University related work or study.

For Advice and Assistance

Southern Cross University Contacts

HR Services

HR Services is located on Level 2 of the Rod Treyvaud Building (F Block) at the University's Lismore Campus.

Our contact details are:

T: +61 2 6620 3667

F: +61 2 6622 4240

E: hr@scu.edu.au

A: HR Services

PO Box 157

Lismore NSW 2480

Complaints Assistance Officer

T: +61 2 6620 3849

F: +61 2 6622 4171

E: complaints@scu.edu.au

A: Complaints Assistance Officer, Southern Cross University, PO Box 157, Lismore NSW 2480

Student Advocacy Office Lismore

LISMORE

A: Shop 9A Goodman Plaza - next to the Student Common Room

- Senior Advocate T: 02 6626 9232
shae.brown@scu.edu.au ;
advocacy.lis@scu.edu.au

GOLD COAST

A: Building B, Level 2 - Office B2.15

- Rebecca (Beckie) Douglas, Advocate T: 07 5589 3164
beckie.douglas@scu.edu.au ;
advocacy.gc@scu.edu.au

COFFS HARBOUR

A: Building G.L.G.6

- Haylee Fuller Advocate T: 02 6659 3276
haylee.fuller@scu.edu.au ;
advocacy.coffs@scu.edu.au

Equity and Diversity Office

Southern Cross University (Lismore)

T: (02) 6620 3422

E: equity@scu.edu.au (Head, Equity and Diversity Office)

[Equity and Diversity Contacts](#)

Equity and Diversity Contacts act as a point of contact for staff and students who may have a query or concern about an equity or diversity matter.

They are volunteer staff who have a genuine commitment to the principles of equity and social justice. (<http://www.scu.edu.au/equity/index.php/53/>)

University Counselling Clinic

Coffs Harbour (02) 6659 3263

Gold Coast (07) 5589 3252

Lismore (02) 6626 9131

counselling@scu.edu.au

The Hotel School Sydney: (02) 8249 3227

thsscounsellor@scu.edu.au

The Hotel School Melbourne: (03) 9601 3400

thsmcounsellor@scu.edu.au

Student Access and Inclusion (based at Lismore)

Lismore: SCU Health Clinic, P Block (02) 6626 9131

Gold Coast: SCU Health Clinic Building B (07) 55893001

Coffs Harbour: Counselling & Support Services Unit, Level 1, F Block (02) 66593263

Student Ombud

If you have taken all other avenues available to you within the University, the Student Ombud (SO) can investigate your complaint. Initial contact can be made by emailing ombud@scu.edu.au

The S.O. is an impartial investigator, who is able to access records and staff to consider whether you have been treated fairly, and within University policy and procedures. Professor Bill Boyd is currently the nominated Student Ombud.

Reports about another student are dealt with under the Rules – Student Academic and Non-academic Misconduct Rule.

<http://policies.scu.edu.au/view.current.php?id=00141>

Reports about staff members are dealt with under the Complaints Policy – Staff.

<http://policies.scu.edu.au/view.current.php?id=00037>

External contacts

Australian Human Rights Commission

P: 1300 656 419 or 02 9284 9888

E: infoservice@humanrights.gov.au

F: 02 9284 9611

TTY: 1800 620 241 (toll free)

National Relay Service: 1300 555 727 (Speak and Listen)
or <http://relayservice.gov.au/>

Translating and Interpreting Service: 131 450 or
<http://www.tisnational.gov.au/>

[Anti-Discrimination Board of NSW](#)

A: PO Box W213, Parramatta Westfield NSW 2150
Level 7/10 Valentine Avenue, Parramatta NSW

F: (02) 9268 5500

E: complaintsadb@justice.nsw.gov.au

Legal Aid Office

Westlawn Building Level 4, Suite 6

A: 29 Molesworth Street

Lismore NSW 2480

P (02) 6621 2082 **F** (02) 6621 9874

Lismore Sexual Assault Service (Access to sexual assault
workers / counselling)

Lismore Base Hospital

A: Uralba Street

Lismore 2480

T: 02 6620 2970

T: (02) 6621 8000 (24 hours)

Lismore and District Women's Health Centre Inc

A: 60 Uralba Street

Lismore

T: 02 6621 9800

F: 02 66218591

E: mail@lismorewomen.org.au

Reference to Sexual Harassment in the existing Harassment, Discrimination and Bullying Policy in policy library 11/09/17
Sexual Harassment

(10) Sexual Harassment is one form of harassment.

(11) Sexual harassment is unwelcome, unwanted or uninvited behaviour of a sexual nature which makes a person feel offended, humiliated and/or intimidated and where that reaction is reasonable in the circumstances.

(12) Some forms of sexual harassment including sexual assault, indecent exposure, stalking and obscene communications may constitute a criminal offence.

(12) The Commonwealth Sex Discrimination Act 1984 and the NSW Anti-Discrimination Act 1977 declare sexual harassment to be unlawful.

(13) Sexual harassment includes but is not limited to:

- a. physical contact - e.g. touching, patting, pinching, kissing or embracing someone, deliberately brushing up against someone, sexual assault and rape;
- b. verbal comments - e.g. insults or taunts of a sexual nature, offensive jokes, suggestive comments about someone's appearance or body, persistently inviting someone out, intrusive questions about a person's private life, requests for sexual favours; and
- c. nonverbal actions - e.g. leers, stares, displays of sexually explicit material such as posters, magazines or screen savers, offensive body and hand movements, sending sexually explicit emails or text messages, suggestive letters and drawings, including email, indecent exposure, stalking, and inappropriate advances on social networking sites.

(14) Sexual harassment is not behaviour which is based on mutual attraction, friendship or respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment. However, relationships may change and behaviour that was previously consensual and welcome, may become sexual harassment if it is non-consensual, unwelcome and not reciprocated.

AHRC 2017**Sex Discrimination**

Sex discrimination occurs when someone is treated less favourably, or not given the same opportunities as a person of a different sex, because of their sex. It also occurs when a rule or policy applies to everyone but disadvantages a person based on their sex and the policy is not reasonable.

The Sex Discrimination Act protects people against discrimination in many areas of public life including employment, education, getting or using services or renting or buying a house or unit. There are some limited exemptions.

The Act makes it unlawful to discriminate against a person on the basis of gender identity, intersex status, sexual orientation, marital or relationship status, family responsibilities, pregnancy or potential pregnancy or breastfeeding. It also prohibits sexual harassment in many areas of public life including all work-related activity.

In addition, the Act allows special measures, or 'positive discrimination', that improve equality of opportunity for people based on their sex.
