

Policies and Procedures

Sexual Harassment Procedure

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Responsible Officer:	Executive Director People and Workforce Strategy
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Approving Authority:	Vice-Chancellor and President
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1. Purpose

- 1.1. The Sexual Harassment Procedure outlines the procedure for handling complaints of sexual harassment. All incidents and complaints of sexual harassment shall be promptly investigated and treated in strictest confidence and due diligence, impartially, and without impunity and victimisation.

2. Scope

- 2.1. The Sexual Harassment Procedure must be read in conjunction with the Sexual Harassment Policy.
- 2.2. Nothing in the Sexual Harassment Policy (see Clause 3.4) shall prevent the Complainant from seeking redress of the sexual harassment complaint with the Police, Ombudsman, or other law enforcement agency.
- 2.3. The Sexual Harassment Procedure does not apply specifically in situation where the Complainant and alleged Harasser or perpetrator are both students of the University. Such complaint must be directed to the Deputy Vice Chancellor Education and dealt with accordingly under the [Regulation Governing Student Conduct](#).

3. Procedure for handling complaints of Sexual Harassment

3.1 Lodging of sexual harassment complaint to the Human Resources Office

- 3.1.1 Complaints of sexual harassment must be lodged confidentially at the Human Resources Office either in writing including email, or verbal via telephone or in person, directly with the Executive Director People and Workforce Strategy, Manager Employment Relations, Senior Employment Relations Officer, or Employment Relations Officer.
- 3.1.2 The Complainant or Informant, or both, are entitled to lodge complaints of sexual harassment at the Human Resources Office.

3.2 1567 toll free Helpline number for Complainants and Informants in Fiji

Complainants or Informants in Fiji can call the toll free helpline number **1567** to speak to an

agent, in confidence, regarding the sexual harassment complaint, and the Complainant or Informant *vis-à-vis* Agent are not obliged to disclose their identity.

3.3 What MUST be done when receiving a sexual harassment complaint

Once a complaint of sexual harassment has been lodged at the Human Resources Office:

- (i) The recipient of the complaint must immediately notify the Executive Director People and Workforce Strategy, or the Manager Employment Relations, Senior Employment Relations Officer, or Employment Relations Officer.
- (ii) The date(s), time(s), facts of the alleged sexual harassment and other pertinent details must be promptly recorded by the Employment Relations Officer.
- (iii) The Manager Employment Relations must appoint a case officer who shall investigate the complaint promptly and in strictest confidence, and produce the preliminary investigation report to the Manager Employment Relations who shall update the Executive Director People and Workforce Strategy accordingly.
- (iv) The case officer must ensure that all information and records pertaining to the sexual harassment complaint are kept confidential.
- (v) The case officer must ensure that the Complainant understands the relevant procedure in dealing with the complaint, in particular, the Informal *vis-a-vis* Formal complaint mechanisms.
- (vi) The case officer must allow the Complainant to elect either the **Informal** complaint mechanism or **Formal** complaint mechanism, on the understanding that choosing to resolve the matter informally does not preclude the Complainant from pursuing a formal complaint if he or she is not satisfied with the outcome.
- (vii) The case officer must also inform the Complainant that he or she is entitled to lodge the same complaint to the Police or other law enforcement agency.

4 **INFORMAL complaints mechanism**

4.1 If the Complainant intends to deal with the matter **informally**, the case officer at the Human Resources Office **MUST**:

- (i) Disclose to the alleged Harasser or perpetrator the allegation of sexual harassment, and allow the alleged perpetrator to respond to the allegation within three (3) days.
- (ii) Upon receiving the alleged perpetrator's response to the allegation, the case officer must then notify the Manager Employment Relations to designate a **mediator** to hold mediation session(s) for the Complainant and the alleged perpetrator.
- (iii) The mediator must record the mediation proceeding, and all related information and records must be kept confidential.

- (iv) If the complaint of sexual harassment is amicably resolved at mediation, the mediator must record the terms of the outcome, and do successive follow up or checks to ensure that the unwarranted behaviour has ceased.

5 FORMAL complaints mechanism

- 5.1 If the Complainant intends to deal with the matter **formally**, or in the event that the mediation pursued under the informal mechanism has failed, the case officer at the Human Resources Office must explain and allow the Complainant to elect whether to have the sexual harassment complaint resolved via the:
 - (i) [Discipline of Academic, Professional, Administrative, Library and Technical, Intermediate and Junior and Hourly Paid Staff Ordinance 2015](#); or
 - (ii) Committee of Enquiry under Clause 6 herein.
- 5.2 If the Complainant elects to have the sexual harassment complaint resolved via the <http://policylib.usp.ac.fj/form.readdoc.php?id=271> USP Discipline of Academic, Professional, Administrative, Library and Technical, Intermediate and Junior and Hourly Paid Staff Ordinance 2015 then the case officer must comply accordingly with the prescribed procedure.
- 5.3 If the Complainant elects to have the matter formally adjudicated by the Committee of Enquiry then the case officer must:
 - (i) Conduct a formal and thorough investigation by interviewing the Complainant, Informant(s), the alleged Harasser or perpetrator, and other relevant persons including gathering relevant information.
 - (ii) Disclose to the alleged Harasser or perpetrator the allegation of sexual harassment, and allow the alleged perpetrator to respond to the allegation within three (3) days.
 - (iii) Upon receiving the alleged perpetrator's response to the allegation of sexual harassment, compile the final investigation report detailing the investigation process, findings and any recommendation(s), and apprise the Executive Director People and Workforce Strategy accordingly.
 - (iv) Refer the final investigation report to the Vice Chancellor and President who, upon consultation with the Executive Director People and Workforce Strategy, shall convene a Committee of Enquiry within five (5) working days, and appoint three (3) persons as members of that committee being authorized to work in accordance with the relevant Terms of Reference.

6 Committee of Enquiry

- (I) The primary functions of the Committee of Enquiry are:
 - (a) To enquire into the sexual harassment complaint; and

- (b) Ultimately decide whether the alleged Harasser or perpetrator is guilty or not guilty of such complaint.

(II) In holding the enquiry, the Committee **MUST** engage in the following:

- a) Interview the Complainant and the alleged Harasser or perpetrator separately.
- b) Interview the Informant or other relevant persons separately.
- c) After interviewing the relevant persons, the Committee must then deliberate in terms of weighing all evidentiary materials and then decide, on the balance of probabilities (i.e. standard of proof), whether the alleged Harasser or perpetrator is guilty or not guilty of the sexual harassment complaint, which decision must be provided in writing.

d) **Plea in mitigation**

If the alleged Harasser or perpetrator is found guilty, the Committee must provide the opportunity for the perpetrator to submit a plea in mitigation.

e) **Penalties**

After the plea in mitigation, the Committee in assessing the gravity of the sexual harassment including the aggravating and mitigating factors:

1) **MUST** (i.e. mandatory) award the following penalties:

- (i) That the Harasser be counselled.
- (ii) That the Harasser writes a letter of apology to the Complainant.
- (iii) Written reprimand

2) **MAY** (i.e. discretionary) award, in addition to the mandatory penalties,

- (i) Other penalties that are appropriate based on the circumstances of the case.
- (ii) Refer the matter to the Police for further investigation and prosecution.

7. Obstruction of justice

Any person or group of persons who willfully and intentionally obstruct or prevent the Complainant, Informant, case officer, adjudicators and other relevant persons from handling and resolving the complaint of sexual harassment, commits a 'misconduct' and shall be subjected to disciplinary proceedings under the [USP Discipline of Academic, Professional, Administrative, Library and Technical, Intermediate and Junior and Hourly Paid Staff Ordinance 2015](#).

8. False and vexatious complaints

A Complainant and/or Informant who lodges a complaint of sexual harassment that is false

and/or vexatious commits a ‘misconduct’ and shall be subjected to disciplinary proceedings under the [USP Discipline of Academic, Professional, Administrative, Library and Technical, Intermediate and Junior and Hourly Paid Staff Ordinance 2015](#).

9. Related Documents

- a) [Sexual Harassment Policy](#)

10. References

This Policy has borrowed information from the following Universities and other institutions, which are acknowledged:

- a) The University of Auckland, NZ – <https://www.auckland.ac.nz/en/about/the-university/how-university-works/policy-and-administration/human-resources1/employer-and-employee-responsibilities/prevention-of-bullying--harassment-and-discrimination-policy-and.html>
- b) The University of Queensland - <http://ppl.app.uq.edu.au/content/1.50.13-sexual-misconduct#Policy>
- c) The University of Sydney - <http://sydney.edu.au/policies/showdoc.aspx?recnum=PDOC2018/470&RendNum=0>
- d) UNSW, Sydney - <https://www.gs.unsw.edu.au/policy/documents/sexualmisconductpreventionandresponsepolicy.pdf>
- e) Victoria University, Wellington, NZ - https://www.victoria.ac.nz/_data/assets/pdf_file/0010/1738108/sexual-harassment-prevention-policy-for-consultation.pdf
- f) The University of Otago, NZ - <https://www.otago.ac.nz/administration/policies/otago711781.html>
- g) Ministry of Labour, Industrial Relations, Tourism and Environment (Fiji), *2007 National Policy on Sexual Harassment in the Workplace* - <http://www.employment.gov.fj/bills/National%20Policy%20On%20Sexual%20Harrasment.pdf>
- h) International Labour Organisation (ILO), *Eliminating sexual harassment in workplaces in the Pacific Policy Brief* - https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-suva/documents/policy/wcms_407363.pdf