

Sexual Harm: Privacy, Confidentiality, and Rights Statement

Deciding whether to disclose or report sexual harm to the University can be stressful. This factsheet will help you understand how the information you provide will be managed and your rights.

Privacy:

Disclosures and reports of sexual harm will be treated confidentially and in accordance with the University's Privacy - Personal Information Policy. This means that:

- a) resolution processes will be conducted by as few people as possible;
- b) disclosure/report records may be shared confidentially with appropriate officers of the University or external authorities on a strict need to know basis, as part of the University's duty of care obligations, or as required by law;
- c) de-identified data may be used by the University for the purposes of reporting on the management of disclosures and reports of sexual harm;
- d) once an investigation is complete, the University will not restrict the victim/survivor's right to speak (subject to the University's other legal obligations), acknowledging that the victim/survivor may choose to get advice on any consequences associated with doing so;
- e) if an allegation of sexual harm involves a senior leader of the University and that allegation is substantiated following an investigation the University may disclose the identity of the individual; the fact that the allegation was substantiated; and any subsequent action taken if there is a legitimate public or stakeholder interest (and subject to the University's other legal obligations).

Sexual harm disclosures and reports about children will be managed in accordance with the Child Safety Policy which outlines additional obligations of the University in relation to the protection of people under 18 years of age.

Confidentiality:

Information that you disclose or report to Safer Community will be kept on the secure and confidential Safer Community database and will be managed in accordance with the privacy statement above.

When a victim/survivor does not want to make a formal report to the Police and the alleged perpetrator is a student or staff member, the University may consider reporting circumstances to the Police. In considering whether to make a report to the Police, they may consider:

- a) the wishes of the victim/survivor;
- b) advice of University Legal Services;
- c) advice of Safer Community and other subject matter experts including relevant information about the known/observed behaviour of the alleged perpetrator related or unrelated to the matter at hand;
- d) evidence of a clear and unacceptable risk to the University or general community; and
- e) the course of action that is in the best interest of protecting the wellbeing and safety of the University or general community.

The University will advise the victim/survivor of a decision to make a report to the Police and will only disclose the identity of the victim/survivor with their prior consent, where the University has reason to believe there is a serious threat to someone, or as otherwise required by law.

Rights:

- You have the right to decide whether you report the incident to the Police.
- You have the right to decide what information you would like to disclose or report, and to where, at the University. For example, you may choose not to name the alleged perpetrator.
- You have the right to make an anonymous report. You can do this online via the Safer Community reporting form. However, the University's ability to respond to anonymous reports may be limited, and we will not be able to update you about any response or actions taken on your report.
- You have the right to consider your options and determine the course of action that best suits you.
- You have the right to change your mind about you want at any time. For example, you can withdraw a report at any time. The matter will then be treated as a disclosure and will generally not lead to further action unless required by law, for example the University has reason to believe there is a serious threat to someone (see 'Disclosure versus Report' below for more information).

Disclosure versus Report:

Students can disclose or report any incident of sexual harm to Safer Community, including recent or historical incidents.

Individuals may choose to either disclose or formally report any incident of sexual harm to Safer Community or the Police. This decision will determine the action the University may take:

- a) Disclosing the incident is where an individual confides in someone else that they have been the victim of sexual harm, in order to receive resources and support. A disclosure will generally not lead to further action by the University.
- b) Formally reporting is where a student provides a formal account or statement about the sexual harm to the University. As a result, an internal investigation may commence to determine if the conduct constitutes a breach of any relevant instruments, including the *General Misconduct Statute 2009 (students)*.

The University may have an obligation to investigate a matter of sexual harm, with or without the victim/survivor's participation, to comply with its legal obligations. For example, in circumstances where the University considers the risk of harm to others to be sufficiently serious, it may have to take further action, including potentially formally investigating the matter.

To determine its obligation to act, the University may consider:

- a) making reasonable enquiries (including its incident records) to determine whether there may be a current or future risk to the safety and wellbeing of other members of the University community;
- b) taking action to protect the safety and wellbeing of the University community including implementing protective measures;
- c) reporting the matter to an external organisation (such as a placement provider) where the victim/survivor was on University business; and
- d) making a report to the Police.

Review of University Response to a Report of Sexual Harm:

A student who wishes to seek a review of the University response or handling of a report of sexual harm may lodge a formal complaint which will be handled in accordance with the Student Complaints Management Policy and managed by the University Ombudsman.

For further information you can access the University Policy Library: www.policies.latrobe.edu.au