



MEMORANDUM

TO	Victoria University of Wellington
FROM	Victoria University of Wellington Students' Association ('VUWSA')
DATE	31 May
SUBJECT	VUWSA submission on Sexual Harassment Prevent Policy and Procedures

Stand-alone policy

We appreciate that this is a stand-alone policy, which works in conjunction with both Staff and Student Conduct Statutes'. This is something VUWSA has been working in partnership with the University on for many years.

Disclosures and complaints

We appreciate the distinction between disclosures and complaints. The current process only allows students to make a formal complaint, which makes them unable to remain anonymous and requires them to go through a very litigious and formal process. VUWSA commends the inclusion of sections pertaining to active bystander intervention, no victimisation, and interim measures.

VUWSA Advocate

We appreciate the prominent inclusion of our VUWSA Advocate as an avenue for students to report to. This allows students to disclose/ complain to a person who is 100% independent from the University. This is particularly important in situations where the perpetrator is employed by the University.

The VUWSA Advocate is mentioned frequently in the procedures. Our advocate has an extensive history of supporting students to make a complaint to the University. The University, by including our Advocate in the procedures, recognises this. VUWSA is extremely under-resourced and our Advocate is at full capacity. The current level of resourcing for our Advocate is unsustainable.

By recognising the extent to which our Advocate supports students in making a complaint about sexual harassment, the University must also recognise the limitations to which we can continue to provide such support (without additional resources). The VUWSA Advocate already works closely with the Student Interest and Conflict Resolution team in providing such support, as well as the wider Student Academic Services team.

Currently if our advocate is supporting a complainant, she cannot support a perpetrator. Perpetrators also require support and in some instances the Student Conflict Resolution Office has called on our CEO to represent a perpetrator when our advocate has a conflict of interest. This is undesirable and unsustainable. VUWSA currently offers support in this way as a gesture of good will.

As VUWSA runs O-Week events and provides O-Week bags, our Advocacy service is advertised to first-year students as soon as they arrive at University. The VUWSA Advocate also supports students with academic grievances, academic complaints, appeals, emergency accommodation, advice on university processes, tenancy disputes and other issues that adversely impact on their studies.

Additional resourcing would allow VUWSA to increase our capacity to provide advocacy services, which could allow us to provide targeted support to students making a disclosure or complaint about sexual harassment.

Recommendation 1

We propose that the University provide additional resourcing to the VUWSA Advocate.

Definition of 'sexual harassment'

We believe the definition of "sexual harassment" is too restrictive. We believe the University needs to shift away from a litigious approach, to a more behavioural one.

After extensive consultation with representative groups (Appendix 2), the following qualifications were deemed to be too restrictive:

- "... that is **repeated** or is **significant enough** ..."
- "... a harmful effect on an individual's **study or employment** environment, study or job performance or satisfaction."
- "... undesirable or offensive **at the time**."

The policy requires the offending behaviour to have a harmful effect on study or employment. However, we note that victims/ survivors may continue to maintain their studies and employment while suffering harm from the offending behaviour. These restrictions appear to exclude harm where a student continues to maintain employment and sufficient grades.

The policy expressly requires behaviour that is repeated, although there are many isolated incidents. Isolated incidents can cause equally as much harm as repeated behaviour. There is also uncertainty about to what extent behaviour is considered 'repeated'.

The policy expressly requires behaviour that is 'significant enough'. We are extremely concerned about this qualification, as it appears to be 'significant enough' as defined by the

University or person other than the victim/ survivor. It is important that victims/ survivors are able to define sexually harmful behaviour and the extent to which it causes harm. Even if 'significant enough' was interpreted to be defined by the victim/ survivor, it is still an necessary restriction. Students who read the policy may pre-determine that the offending behaviour may not be 'significant enough' and be deterred from reporting.

The policy expressly requires the offending behaviour to be undesirable 'at the time'. We are concerned that students who retrospectively reflect on behaviour, after it has occurred, and decide that it was unwanted will be excluded from the policy. We want to re-emphasise the fact that victims/ survivors must be enabled to define sexually harmful behaviour and the extent to which it causes harm.

In summary, the definition section should be amended to reflect the spectrum of sexually harmful behaviours that should be reported.

Recommendation 2

We propose amending the definition from "sexual harassment" to "sexually harmful behaviours" so that the policy does not impliedly limit the scope of what can be reported.

Recommendation 2A

We also propose removing the unnecessary and litigious qualifications, for reasons discussed above. We believe such restrictions are not victim/ survivor centric and place unnecessary barriers in the way of reporting.

Disproportionately affected groups

During the consultation process, the University recognised the various groups which are disproportionately affected by sexually harmful behaviours. This includes:

- Women
- International Students
- Rainbow Community
- Ethnic Minorities (particularly Māori and Pasifika women)
- Students with disabilities
- Students from a refugee and migrant background

However, there is no explicit recognition for any of these groups. We recognise that the policy is deliberately ambiguous, to allow for flexibility in it's application on a case-by-case basis. But we strongly recommend active inclusion of these vulnerable groups. This will give explicit recognition to the fact that these groups suffer disproportionately and that the University is committed to providing tailored support for individual needs.

We commend the University on including examples of sexual harm. However, these examples do not reflect the fact that sexual harm looks different to specific groups. For example, there are significant differences of sexual harm between a cis person and a

transgender person. The vulnerable groups mentioned above will suffer distinct differences in their experience of sexual harm amongst themselves, and will differ significantly compared with the majority.

Recommendation 3

We propose including a new section on vulnerable groups who are disproportionately affected by sexual harm.

Recommendation 3A

We propose including more diverse and inclusive examples of sexual harm which reflect those disproportionately affected.

Power imbalance

Following extensive consultation with representative groups, we strongly advise the explicit recognition of the power imbalance between staff and students. This includes staff who are students, specifically Tutors and Residential Advisors. This recommendation arose from discussions with students who had undergone the formal complaints process and felt that the process did not adequately support students in complaining about staff, particularly where the staff member was also a student. A key theme from our consultation was that many of these students had not been communicated the outcome of whether this staff member was still allowed to interact with other students or not. This was a significant and deeply upsetting concern to these students. The policy needs to be explicit in reflecting the difficulty in bringing a complaint against a staff member, particularly where that complaint is being arbitrated by their employer (the University).

Recommendation 4

We propose including explicit recognition of the power imbalance between students making disclosures or complaints about staff members.

Recommendation 4A

We propose including explicit recognition of coercive and controlling behaviour in the definition section.

Accessibility

Students

During our extensive consultation with representative groups, a major concern was the accessibility of this policy. This was particularly emphasised representative groups for students with disabilities and international students - 'Can Do' and 'V-ISA'. We strongly advise that the policy be communicated in a way which is accessible to students with disabilities that impair their ability to comprehend large amounts of text. We also strongly advise that the policy be communicated in different languages so that students from diverse cultural and ethnic backgrounds can access the policy.

Recommendation 5

We recommend that VUW should work in partnership with VUWSA in order to ensure this policy is accessible to all students. This partnership could be used to provide a non-intensive physical and online resource, as well as ensuring University accountability in ensuring it's staff members are well informed of this policy.

Staff

Another major concern was that key staff members would not have sufficient knowledge of this policy to advise students on how to make a disclosure/ complaint. We strongly recommend all academic and professional staff members who engage directly with students be trained on how to support students in reporting. The staff members which were identified and emphasised in consultation are the following:

- Lecturers
- Tutors
- Residential Advisors
- Student Advisors and Support Coordinators

Recommendation 6

We strongly recommend there be mandatory trainings on how to support students in reporting for all academic and professional staff members who engage with students. We suggest these be included in induction and leadership trainings provided by the University.

Recommendation 6A

We recommend that an explicit recognition of the Tutors Policy and the Critical Incident Response Policy (Halls of Residence) be included in the policy.

Views on consultation process

Overall, we are disappointed with the student consultation process. The consultation process relied on the existing working relationships between individual executive members of VUWSA, PGSA and VUW Feminist Organisation and the Student Interest and Conflict Resolution Manager.

The University ran student forums about the policy which were poorly attended. VUWSA attend every student forum. The Kelburn Forum had around 15 students maximum, while Pipitea had 7 and Te Aro had zero. We also note that the Māori and Pasika forum had 3 attendees, including a VUWSA representative. This is extremely poor student consultation for a population of 22,000.

We were also disappointed that a large duration of the initial consultation period ran throughout the mid-trimester break which is a time where students are less engaged with the University.

VUWSA conducted its own consultation process with students from representative groups and faculty-based groups over the past three weeks. This required arranging a large number of meetings and ongoing correspondence. We also assisted students in writing their own submissions. During this time, VUWSA also set up the Thursdays in Black club whose purpose is to raise awareness of sexual harm and promote sexual harm prevention at the University.

We strongly believe that student forums are a poor consultation mechanism. VUWSA has conducted its own consultation process with limited resourcing on two major policies within the last year, including the Name Change proposal and the Sexual Harassment Prevention Policy. VUWSA's independent consultation has been far more successful than the University's. It was clear during the consultation process that the wider University (excluding the DVC Māori and AVC Pasifika Offices) is disconnected with other student representative groups, particularly Māori and Pasifika Students' Associations.

Recommendation 7

We strongly recommend that the University resource VUWSA to conduct its student consultation. It is clear that VUWSA has far greater and sustainable relationships with other student representative groups, which has been evidenced by the effectiveness of our own independent consultation processes on both the Name Change Proposal and the Sexual Harassment Prevention Policy.

Other points

Independent support from University

We advise that the policy include a stronger emphasis on support for students that is independent from the University. There is a general concern that some students will feel uncomfortable seeking assistance from the University where the perpetrator is the staff member.

Applicability of policy

We advise that the policy provide examples of situations where this policy will be applicable. There are specific queries about conferences, sports teams, field trips and networking events hosted by and/ or at the University.

Information sharing, record keeping and confidentiality

We advise that the policy provide more clarity regarding information sharing (particularly within the University), record keeping and confidentiality.

Support for Perpetrators

We advise that the policy provide more clarity regarding support for perpetrators during this process. As mentioned above, if VUWSA had two advocates we would be able to support perpetrators as well as complainants. In the present situation we have had to rely

on the good will of our Manager, Matt Tucker, to represent perpetrators when our advocate has a conflict of interest.

Active Bystander Intervention

We advise that the policy provide more clarity regarding the University's commitment to active bystander intervention. For example; codify the commitment to mandatory trainings for staff members, particularly Tutors and Residential Advisors.

Appendix 1: Recommendations

Recommendation 1

We propose that the University provide additional resourcing to the VUWSA Advocate.

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Appendix 2: Representative groups consulted

- Ngāi Tauira - Māori Students' Association
- Pasifika Students' Council - Pasifika Students' Association
- Uni Q (representative group for queer students)
- Victoria University International Students' Association
- Victoria University Feminist Organisation
- CanDo (representative group for students with disabilities)
- Victoria University of Wellington Law Students' Society
- Wellington Community Justice Project
- Ngā Rangahautira - Māori Law Students' Association
- Pasifika Law Students' Society
- Asian Law Students' Society
- Victoria University of Wellington Commerce Students' Society
- Student Wellbeing and Awareness Team
- UN Youth
- VUW Sociology Society
- VUW Arts Society