



Submission on Draft Sexual Harassment Prevention Policy & Procedure

UniQ Victoria

The Queer Students' Representative Group at Victoria University of Wellington | Te
Whare Wānanga o Te Ūpoko o Te Ika a Māui

Preface

This submission is made by the UniQ Victoria Executive Team and reflects the various concerns and recommendations we have for the Draft Sexual Harassment Prevention Policy and Draft Sexual Harassment Prevention Procedures. UniQ Victoria makes this submission on behalf of itself and does so in the interests of all rainbow students of Victoria University of Wellington (VUW).

UniQ Victoria is VUW's queer representative and advocacy group. We offer a social and supportive space for all queer students at VUW. The rainbow community is vast, with a diverse range of experiences, needs and values, which are all relevant and should be taken into consideration when introducing the respective policy and procedures. It is for this reason we make this submission.

**queer and rainbow may be used interchangeably in this submission. We use 'queer' and 'rainbow' as umbrella terms to encompass the entire community. Uses of 'queer' and 'rainbow' should be treated as such unless specified otherwise or more specific terminology is used, e.g. transgender women.*

Draft Sexual Harassment Prevention Policy and Procedures

This section will specifically pertain to the Draft Sexual Harassment Prevention Policy, and Draft Sexual Harassment Prevention Procedures made publically available [here](#) and [here](#), respectively.

Concerns & Recommendations

Sexual Harassment Prevention

We find the use of the term sexual harassment to be outdated and not fully comprehensive in the manner we believe the university is intending to be with this policy. Given the numerous examples of sexual harassment provided in Section 7 of the Policy and our own understanding of sexual harassment, we believe terms like sexual harm and harmful sexual behaviour to be more in line with best practice.

The idea of prevention is not fully realised in the Policy and Procedures as most of the points pertain to the university's proposed responses to sexually harmful behaviour once it has occurred. It is responsive in nature, which is also important but not preventative.

Recommendation 1a

We recommend that the Policy and Procedures be amended, changing the use of “sexual harassment” to “sexually harmful behaviour.”

Recommendation 1b

We recommend that the Policy and Procedures be amended to include more details on the prevention methods the university will take with regard to sexually harmful behaviour.

Definition of ‘Sexual Harassment’

We find there to be many issues with the way sexually harmful behaviour is defined in this policy. The qualifications of sexually harmful behaviour are too restrictive and do not reflect actual experiences of sexual harassment, thus limiting the university’s ability to respond. For this to be a victim/survivor-focused policy, the definition must be broadened and made more inclusive. Specifically, the use of:

- **“repeated or significant enough”;**
- **“individual’s study or employment environment, study or job performance or satisfaction”;**
- And **“undesirable or offensive at the time”**

Victims/survivors can have experiences of sexually harmful behaviour that are not repeated yet can still have a harmful impact on their wellbeing. Isolated incidents should still be confronted with the same force as repeated ones. It is also unclear what would be considered a repeated incident as the particulars of the sexually harmful behaviour can change over time (perpetrator, victim, kind of harmful behaviour).

The use of “significant enough” is especially concerning given the subjective nature. It is unclear from this policy who will be determining what is and is not significant enough to warrant action from the university. It is essential the victim/survivor is able... This definition allows for instances of sexually harmful behaviour to be dismissed under the guise of being not significant enough, which can create further problems upon implementation. Students may not consider their experiences significant enough to make a complaint or disclosure, or staff who administer the complaint/disclosure process may dismiss instances of sexually harmful behaviour due to external pressures.

The limitation to study or employment fails to understand how victims/survivors behave post-incident. There can be no visible difference in study or employment despite their being serious harm caused and distress experienced. This definition neglects physical, mental and emotional wellbeing, the individual’s safety on university properties, and ability to participate in university life beyond study. It also fails to understand that the impact of sexually harmful behaviour manifests itself differently in every victim/survivor.

Offensive or undesirable at the time also does not reflect or encompass everyone's experiences with sexually harmful behaviour. Victims/survivors' understanding of the behaviour they were subjected to can change over time as their understanding of the incident grows. People can recognise the unwanted or harmful aspects of sexual behaviour they have experienced in retrospect and should not be excluded from this policy.

Recommendation 2

We recommend that the definition of 'sexual harassment' be amended to create a more victim/survivor-focused definition that removes the restrictions discussed above. Victims/survivors must be allowed to define their experiences on their own terms.

Examples of 'sexual harassment'

The examples of 'sexual harassment,' while extensive, miss out some key behaviours that should be acknowledged. Rape, forced sexual behaviours, and other similar behaviours should be included and explicitly stated in the policy so as not to deter students from complaining or disclosing.

It is important that we do not sanitise how we discuss sexually harmful behaviour to the point of becoming vague and easily misunderstood. The Policy and Procedures present an opportunity for the university to tackle sexually harmful behaviour within our institution directly and should be utilised to the utmost degree.

We also draw attention to the note following the examples that specifies **"context is important and relevant."** Context like the one given regarding actual or perceived power imbalances is important and we commend its inclusion. We are concerned, however, that this consideration of context could be used to dismiss or disregard instances of sexually harmful behaviours against rainbow students. From inappropriate touching to stalking or sexual assault, we can envision perpetrators utilising the defence of context to minimise their actions. Defences like "it was just a joke" or "that's just my opinion" are frequent when people discriminate against the rainbow community and these harmful actions are often of a sexual nature due to how we are perceived in society. Context is subjective, are we are concerned with whose understanding of context is being considered.

Context is also important when considering cultural differences in understandings of sexually harmful behaviour. While we are not equipped to reflect on these differences in details, we are aware of their existence and are concerned about their lack of consideration in the Policy and Procedures.

Additionally, context is important when considering the history and wellbeing of the victim/survivor and perpetrator. A victim/survivors' personal history should be allowed under this note of context as a means of letting the victim/survivor define their experience.

A perpetrator's lack of history should be considered when determining a course of action but not to excuse or write off their actions.

Recommendation 3a

We recommend that the examples of 'sexual harassment' be broadened to include sexually harmful behaviours across the spectrum, with particular focus being placed on examples of sexually harmful behaviour that people from disproportionately affected groups can experience.

Recommendation 3b

We recommend that the note on context be expanded upon, with explicit mention of how context can and will be applied. This is particularly important when context is applied cases where disproportionately affected groups are concerned.

Disproportionately affected groups

We are concerned about the distinct lack of inclusion of disproportionately affected groups in the policy. As a representative group, we are aware of the unique challenges rainbow students face in terms of sexually harmful behaviour. We are also aware that the presence of unique challenges is shared among other groups. These are, but are not limited to:

- Rainbow community
- Women
- Māori and Pasifika people
- Students with disabilities
- International students
- Other ethnic minorities
- Students from a refugee or migrant background

For the rainbow community in particular, this is a serious concern as we are at greater risk of being subject to sexually harmful behaviour than our non-rainbow counterparts. The Thursday in Black Aotearoa New Zealand Survey "[In Our Own Words](#)," published in 2017, highlights just how disproportionate our experiences are.

Some excerpts from the report include:

- 69%, 75%, and 53% of trans-identified respondents (women, men and no identifier) said they had experiences of sexual violence prior to tertiary education that impacted on areas of their academic and social lives, and their spiritual and mental wellbeing, during their time as a tertiary student.
- 87% of cisgender women who identified exclusively as lesbian, 91% of cisgender women who exclusively identify as bisexual, 96% of women who identified with a minority gender, and 100% of trans-identified women had experienced some form of sexual harassment during their time in tertiary education.

- 56% of cisgender men who identified as bisexual and 67% of cisgender men who identified exclusively as gay had experienced some form of sexual harassment during their time in tertiary education.
- 92% of those who identified with a minority gender, 88% of trans-identified, 89% of non-binary identified, 92% of agender identified, 94% of Māori who identified with a minority gender, 97% who genderqueer/genderfluid identified, and 100% of takatāpui identified participants had experienced some form of sexual harassment during their time in tertiary education.

This is by no means a complete picture as it only includes those who had experienced sexual harassment (sexual assault was excluded for brevity). However, this highlights the unique risk that threatens the rainbow community and justifies the inclusion of a disproportionately affected groups section in the Policy and Procedures.

Recommendation 4

We recommend that the Policy and Procedures be amended to include sections that specifically and explicitly address the unique experiences of disproportionately affected groups and that they comprehensively address the needs of each respective community. This could take the form of a new section of the Policy and Procedures dedicated to disproportionately affected communities or referencing to these communities throughout. The key point of this recommendation is that these communities are explicitly mentioned by name so that they are aware they were and are being considered and included.

Resourcing and Support

The Policy and Procedures make frequent reference to sources of support who are not the primary staff members overseeing the complaint and disclosure process. The VUWSA Advocate and Rainbow & Inclusion Adviser are the two of note who we are concerned may become overwhelmed by the influx of complaints and disclosures that come their way.

Appropriate spaces which are confidential and comfortable are also necessary as we note the Rainbow & Inclusion Adviser shares their office with two other staff members. This could prove a problem if students wanted to complain or disclose to the Rainbow & Inclusion Adviser as they may be deterred by setting. For the rainbow community, there is an additional dimension of confidentiality as not everyone is willing to draw attention to their gender and/or sexual identity.

In terms of resourcing, it will be important that resources are distributed to these referenced support services in a way that reflects the increase in workload they may experience. Support should also be provided in terms of training these staff and providing appropriate emotional support.

Staff of all kinds must also be allocated to appropriate resources for training and support. Even if they are not referenced in information materials, students may complain or disclose to a variety of people. Lecturers, Tutors, and Residential Advisors are just some of the people who may become aware of an instance of sexually harmful behaviour. It is important that they are aware and capable of responding to these situations in an appropriate manner.

Recommendation 5a

We recommend that those referenced in the Policy and Procedures as support services and those who act as informal support services in practice, like student leaders and key staff, be allocated additional resources to accommodate specific training and support measures.

Recommendation 5b

We recommend that the Rainbow & Inclusion Adviser (and any other relevant support services) be appropriately trained and allocated resources to respond to complaints and disclosures effectively. This would include having rooms available for students and staff that meet confidentiality and security needs.

Power Dynamics

While referenced broadly, the power imbalance between students and staff is something that needs to be more explicitly covered in the Policy and Procedures. There are various staff/student relationships that possess the characteristics like tutors and students, residential advisors and students, and specialist support service staff and students. It is important these staff are knowledgeable in the power they possess in certain contexts and are capable of preventing instances of sexual harm before they occur.

Power dynamics are also relevant in creating an environment in which people are comfortable disclosing and complaining. Students with distrust or a lack of confidence in authority figures may be dissuaded to disclose or complain due to the power imbalance in the environment. Students may not feel like staff are understanding and capable of listening to them, and that they will not dismiss them. While difficult to address, it is something to note when training staff.

Recommendation 6

We recommend that the mention of power dynamics be expanded upon in this Policy and Procedures. This type of context should be considered throughout the process in its different forms.

Auditing

Auditing is an important aspect of accountability and we would like to see a strong commitment to this throughout the policy. We believe this will be best achieved by regular

independent auditing in order to make sure the university is sticking to its own policy and procedures.

This is especially important for communities like the rainbow community who, because of historical trauma, distrust institutions and authority overall. Independent auditing would be an important step towards rebuilding trust and eliminating the barriers that rainbow students face.

Recommendation 7

We recommend that the Policy and Procedures be underpinned by regular independent auditing from a trusted and reliable organisation as well as internally.

Complaints and Disclosures

The distinction between complaints and disclosure is one we commend and appreciated being included. This is very important for all students and allows for greater engagement with students and greater potential for reducing harm.

We have concerns with how disclosures can be progressed to complaints without the consent of the students in question. While we understand that the university has an obligation to take action if they believe it is necessary and this is likely to be a rare occurrence in practice, we wish there to be more consideration for the impacts on students should their disclosure be progressed and acted upon without their consent.

We do not expect the policy to change in this regard but we hope that the possibility of this event, however unlikely, be clearly communicated to students through information material so that they are able to make informed decisions regarding engaging with this process. While it is not ideal that this would discourage students from engaging in the process, it is their right to make decisions that they believe are in their best interests.

Recommendation 8

We recommend that the Policy and Procedures make it clear and obvious with regard to how and when their disclosures can be progressed to a complaint without their consent.

Other Notes

Accessibility

We would like to see greater efforts put towards making the Policy and Procedures accessible to all students regardless of disability or cultural background. Having the information in easy to read materials and in different languages is advised. We would also like to see that the particulars of the complaint and disclosure process are communicated

clearly so that students are completely informed about the actions they can take to receive support.

Information Applicability

We advise attention be placed on the continued relevance of information provided in the Policy and Procedures. Some of the information included in the Policy and Procedures, while accurate, will become irrelevant as time goes on. Specific staff members will leave their role and information should be updated to reflect this. We are also concerned about information that communicates circumstances that might not always be the case. For instance, there being a doctor at Mauri Ora with specialist training in sexual assault.

Student Leader Training and Policy Help

We would like to see some training for student leaders to be implemented, particular for those whose clubs source their members from disproportionately affected groups like the rainbow community. As we are essential untrained in these manners to a professional degree, it would be useful to understand how best to respond so not to cause further harm. It would also be useful to have help in setting internal policy through guidelines or recommendations so that future student leaders have a framework that they can utilise.

Stakeholder Consultation

We advise there be greater attempts made in terms of outreach to students and greater consultation, possibly through VUWSA. The student consultation for the Policy and Procedures thus far has been ineffective in reaching the students.

Professional Consultation

We advise the university to seek advice and consultation from professional third-party organisations who can provide expert advice on the Policy and Procedures. This would ensure it reflects best practice in responding to and preventing sexually harmful behaviours.

External Support

We advise there be greater awareness made of external support services available to students. We are concerned some students do not trust the university to support them adequately and will turn to non-university support services. This is particularly important when a staff member is the perpetrator.

Transparency & Accountability

We advise there be greater transparency of the process involved in making a disclosure or complaint and that there be obvious methods of holding the university accountable for this process. This is especially important with regard to record keeping and confidentiality as there are certain cases where information will be held by the university. Students would

feel more secure in turning to the university if they knew how the process worked and could hold them accountable.

Historical Complaints, Disclosures and Incidents

We advise there be clarification and greater consideration given to the nature of historical complaints, disclosures and incidents. These will be complaints and disclosures that have already been made to the university, or instances of sexually harmful behaviours that have occurred previously but not yet been disclosed or been filed as a complaint.

Active Bystander Intervention

We would recommend the aspects of the Policy and Procedures that relate to active bystander intervention be expanded or made into its own separate resource. As it stands, the policy and procedures focus more on responsive measures post-incident despite being purported as preventative. It is not something that can be implemented in the Policy and Procedures but explore through staff and student conduct materials.

Appendices

Appendix 1: Rainbow Glossary

This is a glossary which includes the commonly accepted definitions of terms we have used in this submission to refer to the rainbow community. Sourced from: Gender Minorities, Aotearoa.

Agender	“One who feels neutral in their gender or who rejects the influence of gender on their person. Sometimes the term nongendered is used in a similar fashion.” (Gender Minorities, Aotearoa, n.d).
Asexual	“A person’s enduring physical, romantic, emotional and/or spiritual attraction to others. An asexual person is not primarily motivated by sexual drive and sexual attractions, though they may experience sexual attraction in some circumstances or have sexual relationships for a vast number of different reasons other than primary sexual attraction” (Gender Minorities, Aotearoa, n.d)
Bisexual	“Currently being redefined to mean that one is attracted to both their own gender, as well as other genders, or to genders similar to their own and different from their own. This better reflects the common experience of bisexual people (rather than simply attracted to binary men and binary women)” (Gender Minorities, Aotearoa, n.d).
Cisgender	“Prefix or adjective that means not trans. Cisgender people identify more

	<p>or less with the gender assigned to them at birth. In discussions regarding trans issues, one would differentiate between women who are trans and women who aren't by saying trans women and cis women. Cis is not an insult, but a neutral descriptor – much like heterosexual is to homosexual” (Gender Minorities, Aotearoa, n.d).</p>
Gender Identity	<p>“One’s actual, internal sense of being male or female, neither of these, both, etc. Everyone has a gender, including you. In some circles, gender identity is falling out of favour, as one does not simply identify as a gender, but is that gender” (Gender Minorities, Aotearoa, n.d).</p>
Genderfluid	<p>“These are non-binary gender identities that indicate shifting between different genders or presentations. They are similarly used by those who feel they have both male and female sides to their personalities, such as some drag queens, some drag kings, and some crossdressers. Do not confuse these terms with Two-Spirit, a gender identity specific to Native American and First Nations cultures” (Gender Minorities, Aotearoa, n.d).</p>
Genderqueer	<p>“Similar to queer, but more specific to rejecting binary genders. Those who identify as genderqueer may identify as neither male nor female, may see themselves as outside of or in between the binary gender boxes, or may simply feel restricted by gender labels. Some genderqueer people do identify within the binary (e.g. “genderqueer woman”), but reject the conventions and expectations associated with that gender” (Gender Minorities, Aotearoa, n.d).</p>
Intersex	<p>“Describes a person whose natal physical sex characteristics (e.g. anatomy, chromosomes) are ambiguous in the context of the male/female sex binary. A person may not know they have intersex anatomy until they reach puberty and their body changes differently than expected, or until they find themselves infertile as an adult. When an intersex infant is born with ambiguous external genitalia, parents and medical professionals typically assign them a binary sex and perform surgical operations to conform the infant’s body to that assignment. This practice is oppressive and is increasingly recognised as unethical and abusive; as intersex adults are speaking out against having been made to undergo potentially harmful medical procedures which they did not consent to. Being intersex does not necessarily imply anything regarding one’s gender, orientation, or trans status” (Gender Minorities, Aotearoa, n.d).</p>
Gender Minority / Sexual Minority	<p>“Sometimes people ask, “Why do you say Gender Minorities instead of Gender Diverse?” The answer is that “Diverse” means there is much variety, while a “Minority Group” is a category of people who are seen as different to the social majority, and are discriminated against on that basis. We feel that this language acknowledges struggle and honours resilience” (Gender Minorities, Aotearoa, n.d).</p>

Pansexual	“Open to attraction to any genders” (Gender Minorities, Aotearoa, n.d).
Queer	“Broadly used to indicate that one rejects heteronormativity and is not heterosexual – though sometimes queer is also used by heterosexual transgender people. Queer is sometimes used as an umbrella term to mean not heterosexual, or sometimes not cisgender. Because of the non-heterosexual connotation, many heterosexual trans people do not like to be called queer and may see this as being misgendered and called homosexual. The word queer has long been used as a slur, so although it is commonly reclaimed, be a little cautious with its use” (Gender Minorities, Aotearoa, n.d).
Takatāpui	“Takatāpui refers to Māori who are not heterosexual and/or not cisgender. It is used both as a primary gender identity (similar to transgender), as a primary sexual orientation (similar to Lesbian, gay, bi, or pansexual), and as an umbrella term for all non-heterosexual and/or non-cisgender Māori people (similar to ‘Rainbow Community’). A takatāpui person may fit the definitions or behaviours of a lesbian, pansexual, transgender, gay, intersex, bisexual, asexual, or any other identity, but may or may not identify with western concepts or English words for these” (Gender Minorities, Aotearoa, n.d).
Transgender / Trans / Trans identified	“An umbrella term for people whose gender identity and/or gender expression differs from what is culturally typically associated with the gender/sex they were assigned at birth. People under the transgender umbrella may describe themselves using one or more of a wide variety of terms or may simply use transgender [...] Some people who fit this definition may not consider themselves to be under the transgender umbrella or transgender. Use the descriptive term preferred by the individual. Many transgender people are prescribed hormones by their doctors to change their bodies. Some undergo surgery as well. But not all transgender people can or will want to take those steps, and a transgender identity is not dependent upon medical procedures. The term transgender is not indicative of sexual orientation, hormonal makeup, physical anatomy, or how one is perceived in daily life” (Gender Minorities, Aotearoa, n.d).

Appendix 2: Recommendations

Recommendation 1a	We recommend that the Policy and Procedures be amended, changing the use of “sexual harassment” to “sexually harmful behaviour.”
Recommendation 1b	We recommend that the Policy and Procedures be amended to include more details on the prevention methods the university will take with regard to sexually harmful behaviour.

Recommendation 2	We recommend that the definition of 'sexual harassment' be amended to create a more victim/survivor-focused definition that removes the restrictions discussed above. Victims/survivors must be allowed to define their experiences on their own terms.
Recommendation 3a	We recommend that the examples of 'sexual harassment' be broadened to include sexually harmful behaviours across the spectrum, with particular focus being placed on examples of sexually harmful behaviour that people from disproportionately affected groups can experience.
Recommendation 3b	We recommend that the note on context be expanded upon, with explicit mention of how context can and will be applied. This is particularly important when context is applied cases where disproportionately affected groups are concerned.
Recommendation 4	We recommend that the Policy and Procedures be amended to include sections that specifically and explicitly address the unique experiences of disproportionately affected groups and that they comprehensively address the needs of each respective community. This could take the form of a new section of the Policy and Procedures dedicated to disproportionately affected communities or referencing to these communities throughout. The key point of this recommendation is that these communities are explicitly mentioned by name so that they are aware they were and are being considered and included.
Recommendation 5a	We recommend that those referenced in the Policy and Procedures as support services and those who act as support services in practice be allocated additional resources to accommodate specific training and support measures.
Recommendation 5b	We recommend that the Rainbow & Inclusion Adviser (and any other relevant support services) be appropriately trained and allocated resources to respond to complaints and disclosures effectively. This would include having rooms available for students that meet confidentiality and security needs.
Recommendation 6	We recommend that the mention of power dynamics be expanded upon in this Policy and Procedures. This type of context should be considered throughout the process in its different forms.

Recommendation 7	We recommend that the Policy and Procedures be underpinned by regular independent auditing from a trusted and reliable organisation as well as internally.
Recommendation 8	We recommend that the Policy and Procedures make it clear and obvious with regard to how and when their disclosures can be progressed to a complaint without their consent.

Appendix 3: Rainbow Statistics from [“In Our Own Words”](#)

Student Experiences of Sexual Harassment

55 per cent of self-identifying men experienced some forms of sexual harassment during their time in tertiary education, of which; 45 per cent of cisgender men who exclusively identified as heterosexual, 47 per cent of cisgender men, 56 per cent of cisgender men who identified as bisexual and 67 per cent of cisgender men who identified exclusively as gay experienced some forms of sexual harassment during their time in tertiary education.

89 per cent of self-identifying women experienced some forms of sexual harassment during their time in tertiary education, of which; 87 per cent of cisgender women who identified exclusively as lesbian, 88 per cent of cisgender women, 91 per cent of cisgender women who exclusively identified as bisexual, 96 per cent of women who identified with a minority gender and 100 per cent of women who self-identified as trans experienced some forms of sexual harassment during their time in tertiary education.

92 per cent of participants that identified with a minority gender experienced some forms of sexual harassment during their time in tertiary education; 88 per cent of trans identified participants, 89 per cent of nonbinary identified participants, 92 per cent of agender identified participants, 94 per cent of Māori who identified with a minority gender, 97 per cent of genderqueer/ gender fluid identified participants and 100 per cent of takatāpui identified participants experienced some forms of sexual harassment during their time in tertiary education.

88 per cent of people who identified with a minority sexuality experienced some forms of sexual harassment during their time in tertiary education.

Student Experiences of Sexual Assault

29 per cent of self-identifying men experienced some forms of sexual assault, of which; 23 per cent of cisgender bisexual men, 24 per cent of cisgender exclusively heterosexual men, 27 per cent of cisgender men and 36 per cent of cisgender exclusively gay men experienced some forms of sexual assault during their time in tertiary education.

57 per cent of self-identifying women experienced some forms of sexual assault during their time in tertiary education, of which; 52 per cent of cisgender exclusively heterosexual women, 53 per cent of cisgender exclusively lesbian women, 58 per cent of cisgender women, 63 per cent of minority gender identified women and 68 per cent of cisgender bisexual women experienced some forms of sexual assault during their time in tertiary education.

57 per cent of Māori-identified question participants experienced some forms of sexual assault during their time in tertiary education, of which; 36 per cent of Māori men, 57 per cent of Māori women, 57 per cent of takatāpui sexuality-identified Māori, 64 per cent of Māori who identified with a minority sexuality, 75 per cent of takatāpui gender-identified Māori and 77 per cent of Māori that identified with a minority gender experienced some forms of sexual assault during their time in tertiary education.

61 per cent of people who identified with a 11 minority sexuality experienced some forms of sexual assault during their time in tertiary education.

67 per cent of participants who identified with a minority gender experienced some forms of sexual assault during their time in tertiary education

Ratification

This submission from UniQ Victoria is ratified by the UniQ Victoria President and its principle author, the UniQ Victoria Communications Officer.

Miia van Beusekom
President

31/05/19



Brock Stobbs
Communications Officer

31/05/19

