

Sexual Assault Prevention and Response Policy

Section 1 - Background and Purpose

(1) La Trobe University aspires to provide an outstanding student and staff experience that is conducive to scholarly activity. Underpinning this experience is a safe, inclusive and respectful environment.

(2) At La Trobe University, the inherent value of each person is respected. Our behaviour must therefore afford dignity, courtesy, equality and mutual respect, which we share across cultures, religions and philosophies.

(3) This Policy and Procedure inform the University's response to reports of sexual assault perpetrated by or against students and staff.

Section 2 - Scope

(4) This Policy applies to all students and staff of the University.

(5) For students, this Policy should be read in conjunction with the [Charter of Student Rights and Responsibilities](#) and the [Student Behaviours Policy](#) which sets out the University's procedures in relation to harassment (including sexual harassment) where students are involved.

(6) For staff, this Policy should be read in conjunction with the staff [Code of Conduct](#) and the [Workplace Behaviours Policy](#) which sets out the University's procedures in relation to harassment (including sexual harassment) where staff are involved.

(7) For staff, this Procedure may be used in conjunction with the [Family Violence Support Policy](#).

(8) The [Child Safety Policy](#) outlines additional obligations of the University in relation to the protection of people under 18 years of age.

(9) This Policy does not supersede, and is intended to be complementary to:

- a. professional standards regarding confidentiality between clients and medical practitioners, nurses, psychologists, social workers; or
- b. mandatory reporting requirements prescribed by child safety legislation;
- c. mandatory reporting requirements prescribed by the [Occupational Health and Safety Act 2004](#).

Section 3 - Policy

(10) Sexual assault is a crime and is not tolerated at La Trobe University.

(11) La Trobe University is committed to:

- a. providing an environment that is free from unacceptable behaviour as deemed by La Trobe University and criminal behaviour;
- b. taking all reasonable steps to ensure everyone is treated in accordance with our values and our policies and procedures;
- c. providing appropriate support mechanisms;
- d. providing appropriate mechanisms for reporting and timely investigation in accordance with procedural fairness;
- e. providing training and education to the University community to promote a respectful and inclusive culture; and
- f. complying with the law.

Prevention

(12) The University acts to prevent sexual assault through strengthening and promoting a respectful community culture. In particular, the University:

- a. articulates clear and uncompromising standards of respectful behaviour;
- b. educates, informs and empowers individuals with the University community to address underlying disrespectful attitudes and behaviours and respond appropriately to reports of sexual assault;
- c. proactively assesses risk of harm and implements appropriate risk mitigation and proactive measures; and
- d. collaborates with appropriately skilled external agencies.

Responding to Reports of Sexual Assault

(13) The University provides support to students and staff who have been sexually assaulted on or off-campus. The University's response to a report of sexual assault alleged to have been perpetrated by another member of the La Trobe community will be informed by the following principles:

- a. all parties (Complainant and Respondent) will be treated with respect by University officials throughout the process;
- b. support will be provided for both parties;
- c. natural justice and procedural fairness will be applied;
- d. the matter will be dealt with in a timely fashion;
- e. the privacy of all parties will be respected;
- f. neither the Complainant nor Respondent will have the option to mediate a complaint of sexual assault;
- g. all matters will be dealt with based on the relevant information available.

(14) The University recognises that an allegation of sexual assault may be made not only by the Complainant but also by a third party (such as a friend or fellow student).

(15) Retaliation directed towards anyone involved in a reported instance of sexual assault is not tolerated and those found to be engaged in such behaviour will be subject to disciplinary procedures.

Section 4 - Procedures

Part A - Seeking Support and Making a Report

(16) In an emergency or in circumstances of immediate danger on-campus, call:

- a. Police or Emergency Services (24 hours): 000

b. and then Campus Security (24 hours): 03 9479 2222

(17) Students and staff who have experienced sexual assault are encouraged to seek information and support from, and to report the matter to SPEAK UP (students) or to HR Assist (staff).

SPEAK UP

Telephone: 03 9479 8988

Website: latrobe.edu.au/speakup

HR Assist

Telephone: 03 9479 1234

Website: [HR Systems & Support](#)

Accommodation Services (Residential Students)

Telephone: 0418 541 953

Website: latrobe.edu.au/accommodation

(18) Support and advice can also be sought from external agencies including:

a. Sexual Assault Crisis Line (SACL) (24 hours): 1800 806 292

(19) Students and staff can report any incident of sexual assault to [SPEAK UP](#) including:

- a. recent or past incidents;
- b. on-campus incidents including within residential facilities owned, operated or managed by the University;
- c. off-campus incidents at a place or event connected with the University. Examples include, but are not limited to, placements, study tours, camps and social events;
- d. off-campus incidents that occur in the Complainant's personal life and with no other relationship with the University other than being a La Trobe student or staff member.

(20) In circumstances where the Respondent is not a member of the La Trobe University community, the University will provide support to the Complainant but is unable to investigate.

(21) Students and staff who disclose a sexual assault to the University may do so to:

- a. seek personal or other support from the University and/or external agencies;
- b. report the behaviour and actions of a student or staff member or other person associated with the University and seek support from the University to be protected from further threats to their safety or wellbeing.

(22) Students or staff who have reported a sexual assault to the University are not required or obligated to be involved in any formal processes such as investigations or disciplinary hearings. Where the student or staff member does not wish to formally pursue the matter through the University, the student or staff member may be asked to sign a statement of no complaint.

(23) Students or staff who have reported a sexual assault to the University may choose not to name the other party when making a report.

(24) Students and staff can make anonymous reports to [SPEAK UP](#); however, the University's ability to respond to anonymous reports is limited.

(25) SPEAK UP will guide and coordinate the University's response including:

- a. providing, facilitating or coordinating timely support, referrals and advice;
- b. acting as the ongoing liaison point for all parties or coordinating the appropriate liaison point for all parties;
- c. facilitating processes and actions to protect the wellbeing and safety of all parties and other members of the University community (refer to part B);
- d. if requested, assisting the Complainant to make a formal report to Police;
- e. undertaking or facilitating any necessary investigations;
- f. providing support to the parties, as necessary, following the conclusion of any investigation and/or disciplinary action;
- g. maintaining privacy, within legislative requirements; and
- h. recording the matter and subsequent action on the SPEAK UP confidential database.

(26) Students and staff are not prevented from seeking information and relevant support from other sources including those listed below. Students and staff may also choose to liaise only with the service provider of their choosing rather than being referred to SPEAK UP.

- a. University Counselling
- b. University Medical Centre
- c. Equity and Diversity Advisors
- d. HR Business Partners
- e. Student Associations
- f. Student Complaints Officer
- g. Accommodation Services staff
- h. Any member of staff they feel comfortable disclosing too
- i. External Agencies including the Police, Centres Against Sexual Assault (CASA), Hospitals

Part B - Protective Measures

(27) Upon receiving a report of a sexual assault, SPEAK UP (in consultation with Campus Security) will assess the need for any measures to protect the safety and wellbeing of all parties and protect the integrity of any investigation.

(28) Where a matter involves students in University operated accommodation, Accommodation Services will be involved in decision-making regarding protective measures.

(29) SPEAK UP will minimise the potential for distress or additional trauma of the Complainant by direct facilitation and liaison with relevant organisational units to coordinate the implementation of protective measures.

(30) The Complainant or Respondent may request a change in academic/work/living situations. If such requested changes are reasonable and reasonably available, the University will support the request to the extent possible. Neither a criminal conviction nor an investigation need be completed before a student/employee requests that such interim measures be put in place.

(31) When arranging and directing the implementation of protective measures SPEAK UP and Campus Security will keep the nature and details of the reported incident confidential, to the extent that maintaining such confidentiality would not impair the ability of the University to provide protective measures.

(32) Protective measures are available regardless of whether an individual chooses to report an incident to the Police, or make a formal report to the University. SPEAK UP or in the case of complex or contentious circumstances, Executive Director, Student Services and Administration and/or Executive Director, Human Resources will determine whether

protective measures are reasonable and should be implemented.

(33) Relevant organisational units will implement protective measures on the recommendation of SPEAK UP and/or the relevant Executive Director defined in clause 32.

Part C - Investigations and Disciplinary Action

(34) The University cannot determine whether a criminal act has been committed. However, the University may seek to determine whether, on the balance of probabilities, there has been a breach of the [General Misconduct Statute 2009](#) for students or the University [Code of Conduct](#) for staff.

(35) For students residing in University operated accommodation, action may also be taken under the Rules of Residence.

(36) Investigations and disciplinary proceedings will be conducted in accordance with the [General Misconduct Statute 2009](#) or the [Workplace Behaviours Policy](#) noting that:

- a. the extent to which the Complainant wishes to be involved will be respected; and
- b. all reasonable steps will be taken to minimise the potential for re-traumatisation of the Complainant when conducting investigations and implementing its disciplinary procedures.

(37) When a student or staff member does not want to make a formal report/complaint to the Police and the alleged perpetrator is a student, the Executive Director, Student Services and Administration or Executive Director, Human Resources may consider reporting circumstances to the Police. In considering whether to make an Information Only Report to the Police, the Executive Director, will consider:

- a. the wishes of the Complainant;
- b. advice of University Legal Services;
- c. advice of SPEAK UP 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.

(38) The decision maker will be responsible for informing the parties of the outcome of any investigation and/or disciplinary action.

(39) When the Complainant does not wish to make a formal report or does not want the University to take any action, other than supporting the Complainant, the University may still have an obligation to act to protect the safety and wellbeing of the University community and prevent future incidents.

(40) The Complainant will be advised that the University may need to consider:

- a. making reasonable enquiries to determine whether there may be a current or future risk to the health and wellbeing of other members of the University community;
- b. taking action to protect the health and wellbeing of the University community including implementing protective measures;
- c. reporting the matter to the external organisation (such as placement provider) where the student was on University business; and
- d. making an Information Only Report to the Police

(41) If the University intends to take any action, the Complainant will be informed.

Part D - Reporting to Police

(42) A Complainant may not wish to report the assault to the Police; this is their right.

(43) The University may assist a student or staff member to make a formal report/complaint to the Police. The University cannot make a report on behalf of the student or staff member. However the University may choose to make an Information Only Report to the Police.

(44) A University information only report to the Police does not oblige the Complainant to pursue Police/legal proceedings.

(45) The University will advise the parties of a decision to make an Information Only report to the Police and will only disclose the identity of the Complainant with their prior consent.

Part E - Educational Training, Awareness and Prevention Programs

(46) The Campus Safety Group (CSG) and Complex Behaviour Risk Advisory Group (CBRAG) are responsible for raising awareness and implementing preventative and educative strategies and programs to prevent sexual assault amongst members of the University.

Part F - Record Keeping

(47) SPEAK UP will maintain a confidential database of all reports of sexual assault. All areas of the University (including Accommodation Services, La Trobe International, Student Associations) will submit information to the SPEAK UP database.

(48) If a report is received by the Manager Student Complaints, the Manager Student Complaints will record the receipt of the report, including the identity of the Complainant, and then refer the matter to SPEAK UP. Receipt of the referral by SPEAK UP will also be recorded in the SPEAK UP database.

(49) University reports of aggregate data about the number of reported instances of sexual assault will be derived from the SPEAK UP database.

Part G - Dissatisfaction with University Response to a Report of Sexual Assault

(50) A student who is dissatisfied with the University response or handling of a report of sexual assault may lodge a formal complaint which will be handled in accordance with the [Student Complaints Management Policy](#).

(51) A staff member who is dissatisfied with the University response or handling of a report of sexual assault may lodge a formal complaint which will be handled in accordance with the [Grievance Resolution \(Staff\) Procedure](#).

Section 5 - Definitions

(52) For the purpose of this Procedure:

- a. Campus Safety Group (CSG): a University management committee, chaired by the Vice-Chancellor, which oversees all aspects of campus safety and security.
- b. Consent: a person consents if they agree by choice and have the freedom and capacity to make that choice.

- c. Complainant: the person making the allegation of sexual assault.
- d. Complex Behaviour Risk Advisory Group (CBRAG): a University multi-disciplinary team that oversees, collaborates on and monitors complex and problem behaviours that significantly impact on the staff and students of La Trobe University. CBRAG will ensure that a proactive, comprehensive and holistic approach is taken in mitigating/preventing these behaviours.
- e. Information Only Report: a report to the Police that contains fact based details of an incident that assists Police to understand the prevalence of harmful and problematic behaviour occurring within a community and to assess issues associated with community safety, the identification of trends, collection and analysis of information and intelligence and need for operational resourcing.
- f. Respondent: a person alleged to have committed a sexual assault.
- g. Retaliation : any adverse action or threatened action, taken or made, personally or through a third-party, against someone who has reported a sexual assault (a Complainant) or is a Respondent or any other individual e.g a witness.
- h. Sexual assault can occur between strangers, acquaintances or in a dating relationship, between spouses, or in any other relationship and includes:
 - i. non-consensual sexual intercourse or rape which is any act of sexual intercourse with another individual against a person's will or without consent, where sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.
 - ii. non-consensual sexual contact includes: fondling, which is the intentional touching of the intimate parts of another person or causing another to touch one's intimate parts against a person's will or without consent, where intimate parts may include genitalia, groin, inner thigh, breast or buttocks, or clothing covering them, or any other body part that is touched in a sexual manner; disrobing or exposure of another against a person's will or without consent; other sexual acts or sexual contact against a person's will or without consent; sexual coercion; and attempted non-consensual sexual intercourse.
 - iii. incest: which is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - iv. statutory rape: which is sexual intercourse with a person who is under the statutory age of consent.
 - v. non-consensual distribution or dissemination of photographs or recordings of sexual activity or nudity, including distribution or dissemination of photographs or recordings of that were made consensually; allowing a third party to observe sexual activity without the consent of all parties.
- i. Sexual harassment: refers to an unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature in person or via electronic/social media. It includes:
 - i. verbal forms such as making comments about someone's appearance in a sexually suggestive way; unwelcome enquiries regarding a person's sex life; requests for sex or repeated unwelcome requests for dates; telephone calls with a sexual undertone; continuous rude or sexist jokes/ remarks; sexual insults or taunts; spreading sexual rumors; threats or non-consensual disclosure of a person's sexual orientation; rating peers or colleagues with respect to sexual performance; sending sexually explicit emails or text messages.
 - ii. non verbal forms such as gestures with a sexual meaning; staring at someone or making obscene gestures or noises; stalking (including cyber stalking); "flashing" or exposing body parts.
 - iii. visual forms such as displaying objects or promotional material, reading materials, or other materials that are sexually demeaning or pornographic in nature.
- j. SPEAK UP: A University service that acts as the central point of enquiry for information, advice and support in managing problematic student behaviours affecting staff or students that have, or could, cause offence, fear or trauma (physical or psychological).
- k. Staff: includes contractors, volunteers, consultants and associates.

Section 6 - Stakeholders

Responsibility for implementation – Executive Director, Student Services and Administration; Executive Director, Human Resources; Executive Director, Infrastructure and Operations.

Responsibility for monitoring implementation and compliance – Campus Safety Group.

Status and Details

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