

# SEXUAL HARM RESPONSE AND SEXUAL HARASSMENT PREVENTION POLICY

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Policy Custodian:	UOWCA Student Services Manager						Document No:		UOWC-SS-POL-129						
Purpose:	<div>1. The purpose of this Policy is to:</div> <div><div>a. Promote a safe and respectful College Community that is free from all forms of unwanted sexual behaviours, harassment, including Sexual Harassment;</div><div>b. Identify and describe and define unwanted sexual behaviours, constituting Sexual Harm and Sexual Harassment;</div><div>c. Provide details of the support and guidance available to individuals involved in incidents of Sexual Harm and Sexual Harassment;</div><div>d. Describe the strategies that UOW College Australia (UOWCA) has in place to prevent Sexual Harassment;</div><div>e. Outline the roles and responsibilities of Staff and Students relating to the prevention of Sexual Harassment and Sexual Harm;</div><div>f. Define the reporting options available within, or external to, UOWCA; and</div><div>g. Outline UOWCA's response to dealing with allegations of Sexual Harm, Sexual Harassment, Vexatious Action or Retaliatory Action by current Staff and Students.</div></div>														
Scope:	UOWGE		✓	UOWCA		✓	UOWD			UOWCHK			UOWMKDU		
	<div>1. This Policy applies to current, recent or historic incidents involving Sexual Harm or harassment, including Sexual Harassment.</div> <div>2. This Policy applies to all Staff and Students in any of the following circumstances:</div>														

	<ul style="list-style-type: none"> <li>a. Disclosures made by any Australian-based member of the UOWCA and UOW Global Enterprises (UOWGE) Community;</li> <li>b. Formal Reports to UOWCA where allegations of Sexual Harm and/or Sexual Harassment have been made against current Staff and Students in any of the following circumstances: <ul style="list-style-type: none"> <li>i. In attendance on any UOWCA owned or occupied property or facility;</li> <li>ii. Residing in Student residential accommodation;</li> <li>iii. Residing in Homestay accommodation provided by Homestay Hosts in UOW College Homestay and other Homestay providers;</li> <li>iv. Using UOWCA equipment or resources (e.g. communication technologies, vehicles, facilities);</li> <li>v. In attendance at a UOWCA event, function or activity;</li> <li>vi. Participating in any activity as a representative or Student of UOWCA (e.g. field trips, practicums, conferences, sporting trips, Community meetings, clinical placements, participation in UOW affiliated clubs etc.);</li> <li>vii. Carrying out functions in connection with a UOWCA endorsed activity, including at places external to UOWCA premises (e.g. at a licensed premises, private residence, in the street);</li> <li>viii. Outside of UOWCA where there is a significant or substantial connection to the employment at UOWCA; or</li> <li>ix. Other special circumstances relating to educational institutions, including participating in any activity or carrying out functions in connection with their position at UOWCA where they come into contact with Staff or Students of a separate educational institution.</li> </ul> </li> <li>3. This Policy applies to any form of contact or communication which may include in person, online or via digital technologies.</li> <li>4. UOW Global Enterprise's <i>Code of Conduct</i> outlines additional obligations in relation to the protection of people under eighteen (18) years of age.</li> <li>5. Close personal relationships between Staff members are not within this Scope of this Policy. <ul style="list-style-type: none"> <li>a. Instances where alleged Sexual Harassment or Sexual Harm occur between Staff, will be managed under UOWGE's <i>Grievance Policy</i>.</li> </ul> </li> </ul>
<b>Related Documents:</b>	<p>Academic Integrity and Student Conduct Policy</p> <p>Conflict of Interest Policy</p> <p>Critical Incident Report Form</p>

	<p>Code of Conduct</p> <p>Declaration of Interest Form</p> <p>Incident Management Policy</p> <p>IT Acceptable Use Policy</p> <p>Grievance Policy</p> <p>Homestay Policy</p> <p>Privacy Policy</p> <p>Student Grievance and Appeals Policy</p> <p>Student Grievance and Appeals Procedure</p> <p>Student Grievance Form</p> <p>Student Feedback Policy</p> <p>Student Conduct in Residences Policy</p> <p>Student Conduct Rules</p> <p>Work Health and Safety Policy</p> <p>Work Health and Safety Procedure</p>
<b>References and Legislation:</b>	<p>Anti-Discrimination Act 1977 (NSW)</p> <p>Australian Human Rights Commission</p> <p>Children and Young Persons (Care and Protection) Act 1998</p> <p>Crimes Act 1900 (NSW)</p> <p>Crimes (Domestic and Personal Violence) Act 2007 (NSW)</p> <p>Education Services for Overseas Student (ESOS) Act 2000</p> <p>Fair Work Act 2009 (Commonwealth)</p> <p>Sex Discrimination Act 1984 (Commonwealth)</p> <p>Summary Offences Act 1988 (NSW)</p> <p>National Code of Practice for Providers of Education and Training to Overseas Students 2018</p>

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## 1. Definitions

- 1.1. Where available, definitions and terms have been sourced from NSW legislation including the *Crimes Act 1900* (NSW) and the *Anti-Discrimination Act 1977* (NSW).

Word/Term/Acronym:	Definition:
Consent	<p>Consent requires ongoing and mutual communication and free and voluntary agreement between people each time they participate in any kind of sexual activity. Consent can be communicated by words or gestures and must be present every time, including for the duration of any sexual act. Consent to one act does not mean Consent is given to any other act. Consent to a sexual act with one person does not mean Consent is given to a sexual act with a different person, or with the same person on a different occasion. Consent can be withdrawn at any time. The law says you must know or have reasonable grounds for believing that the other person Consents to the sexual activity. This means that anyone who participates in any kind of sexual activity must say or do something to find out if the other person (or people) Consents to the sexual activity.</p> <p>The law recognises some situations where there is no Consent, including if the person:</p> <ol style="list-style-type: none"> <li>1. Does not say or do anything to communicate Consent;</li> <li>2. Does not have the capacity to Consent;</li> <li>3. Is so affected by drugs and alcohol that they are incapable of Consenting;</li> <li>4. Is unconscious or asleep;</li> <li>5. Is forced, or fears force, or fears serious harm to themselves, another person, animal, or property;</li> <li>6. Is coerced, blackmailed, or intimidated;</li> <li>7. Is detained or held against their will;</li> <li>8. Is placed in a position where there may be abuse of a position of authority or trust;</li> <li>9. Is mistaken about the nature or the purpose of the sexual activity;</li> <li>10. Is mistaken about the identity of the other person or their marital status; and/or</li> <li>11. Is fraudulently induced.</li> </ol>
Consent Matters	A mandatory online program for Students which covers aspects of Harassment and Bullying and provides strategies for addressing situations described.
Disclosure	A person chooses to tell Staff about an incident involving Sexual Harm or Sexual Harassment without UOWCA initiating a formal investigation process.
EO Online	EO Online is a mandatory self-paced online equal opportunity training program for employees upon commencement of employment and every



	two (2) years thereafter. It covers all aspects of Harassment and Bullying and provides case studies and real-life examples.
Formal Report	A formal account or statement about an alleged incident of Sexual Harm or Sexual Harassment to a person or organisation that has the authority to initiate an investigation and take appropriate action.
Homestay Host	Paid family or individual who cares for the homestay student in their home.
Homestay Student	Individual who is staying with a Homestay Host.
Natural Justice	Principles that ensure that decision-making is fair and reasonable. These include decision-makers informing people of the case against them or their interests, giving them a right to be heard, not having a personal interest in the outcome, and acting only on the basis of logically probative evidence.
Retaliatory Action	Any interference with an investigation of alleged Sexual Harm, Victimisation of any parties to an allegation of Sexual Harm or otherwise subjecting another person to detrimental action in relation to the making of a Disclosure, lodging of a Formal Report, providing support to an individual or reporting an incident of Sexual Harm.
Sexual Harassment	<p>Sexual Harassment is an unwelcome sexual advance, or an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature, in circumstances in which a reasonable person, having regard to all of the circumstances, would have anticipated that the other person would be offended, humiliated, or intimidated.</p> <p>Examples of unwelcome behaviours that may constitute Sexual Harassment include:</p> <ol style="list-style-type: none"><li>1. Unwelcome touching, hugging, cornering or kissing;</li><li>2. Inappropriate physical contact;</li><li>3. Inappropriate staring or leering that makes a person feel intimidated;</li><li>4. Sexual gestures, indecent exposure or inappropriate display of the body;</li><li>5. Displaying, sending, requesting or threatening to share sexually explicit pictures, posters or gifts that make a person feel offended;</li><li>6. Repeated or inappropriate invitations to go out on dates;</li><li>7. Intrusive questions about a person's private life or physical appearance that make a person feel offended;</li><li>8. Sexually explicit comments made in person, via emails, SMS messages, social media or other electronic platforms or systems;</li><li>9. Repeated or inappropriate advances on email, social networking websites or internet chat rooms;</li><li>10. Comments or jokes of a sexual nature that make a person feel offended;</li></ol>



	<p>11. Indecent phone calls, including someone leaving a sexually explicit message on voicemail or an answering machine;</p> <p>12. Requests or pressure for sex or other sexual acts;</p> <p>13. Any other unwelcome conduct of a sexual nature;</p> <p>14. Sexual humiliation, including acts of hazing; and</p> <p>15. Stalking behaviours which include being followed, watched or someone loitering nearby.</p> <p>Some forms of Sexual Harassment may also constitute a Sexual Offence.</p>
Sexual Harm	A collective term used in this Policy to refer to unwelcome sexual behaviours including Sexual Offences (e.g. sexual assault, sexual touching) and Sexual Harassment, perpetrated via any form of contact or communication which may include in person, online or via digital technologies.
Sexual Offence	An action where a person engages in a sexual activity (including a sexual act, sexual intercourse or sexual touching) with another person without the Consent of the other person and who knows the other person does not Consent to the sexual activity. The meaning of each type of sexual activity is in accordance with Division 10 of the <i>Crimes Act 1900</i> (NSW).
Specialist Area	<p>For the purpose of this Policy, the Specialist Area may include:</p> <ol style="list-style-type: none"><li>1. <b>For Staff</b>, the UOWGE Executive Director of People and Culture, the People and Culture Manager, the Senior People and Culture Advisor;</li><li>2. <b>For Students</b>, the UOW's Safe and Respectful Communities (SARC) Team.</li></ol>
Staff	All people employed by UOWCA or UOWGE including conjoint appointments, whether on continuing, permanent, fixed term, casual or cadet or traineeship basis.
Student	A person registered for a course at the UOW College Australia.
TEQSA	Tertiary Education Quality and Standards Agency (TEQSA) is Australia's independent national quality assurance and regulatory agency for higher education.
Trauma-Informed	An approach that acknowledges the impact of trauma; recognises the signs and symptoms of trauma in all individuals involved; fully integrates knowledge about trauma into policies, procedures and practices; and seeks to actively avoid re-traumatisation.
UOW College Australia Community	A collective term to include members of Council, relevant committees, Staff and Students, as well as those who use and/or have used the University's campuses or facilities for work, study, living and socialising, or other authorised activity.
Vexatious Action	An action of a person in making a report that is without sufficient grounds or unjustified to prejudice, annoy or harm UOWCA or another person's reputation or standing.





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Victim-Centric Approach	An approach to systemically focus on the needs and concerns of an individual who has experienced Sexual Harm to ensure compassionate and sensitive delivery of services in a non-judgmental manner.
Victimisation	Subjecting or threatening to subject an individual to some form of detriment.
UOW	University of Wollongong.
UOWCA	UOW College Australia.
UOWGE	UOW Global Enterprises.
Working With Children's check (WWCC)	The Working With Children's Check (WWCC) is a requirement for anyone who works or volunteers in a child-related work in New South Wales (NSW). It involves a National Police Check (Criminal History Record Check) and a review of reportable workplace misconduct.

## 2. Principles

### 2.1. UOWCA is committed to:

1. Promoting a culture of safety, dignity, courtesy and mutual respect for all members of the UOWCA community;
2. Ensuring that individual wellbeing and the reduction of harm are key considerations in any response to Sexual Harm and Sexual Harassment;
3. Dealing with incidents involving Sexual Harm or Sexual Harassment in a manner that is underpinned by Trauma-Informed Principles;
4. Encouraging individuals who experienced behaviour which may constitute Sexual Harm and Sexual Harassment, to notify UOWCA as soon as possible so that appropriate support and guidance may be provided;
5. Responding to all Disclosures and Formal Reports to UOWCA in a sensitive, fair, confidential and timely manner, to the extent possible, following the principles of Natural Justice.

## 3. Policy Statement

- 3.1. UOWCA is committed to promoting appropriate standards of conduct in order to provide a safe and respectful community free from all forms of unwanted sexual behaviours and harassment, including Sexual Harassment.
- 3.2. UOWCA does not accept and will not tolerate the following behaviour:
  1. Sexual Harm, Sexual Harassment, Vexatious Action or Retaliatory Action as defined in this Policy;
  2. Behaviour which induces another person to carry out Sexual Harm, Sexual Harassment, Vexatious Action or Retaliatory Action;
  3. Victimisation in relation to an individual's involvement in incidents of Sexual Harassment.
- 3.3. Current Staff or Students must not engage in behaviour as described in Clause 3.2 of this Policy.
- 3.4. UOWCA strongly encourages the reporting of behaviour as described in Clause 3.2 of the Policy.
- 3.5. Staff have a responsibility to report to their manager, supervisor or appropriate Specialist Area any behaviour as described Clause 3.2 of this Policy. Refer to the Roles and Responsibilities in Section 20 for further information.
- 3.6. Supervisors and managers have an obligation to take appropriate action to prevent the occurrence or continuation of behaviour as described in Clause 3.2 of this Policy. Refer to the Roles and Responsibilities Section 20 for further information.
- 3.7. Guidance Flowcharts summarising *UOWCA's response for Students aged 18 and over and Student's aged under 18* as detailed throughout this Policy is attached at Appendix 1 and Appendix 2.

## 4. What is Sexual Harassment

- 4.1. Section 1 of this Policy provides the definition of Sexual Harassment and includes examples.
- 4.2. Sexual Harassment may constitute a Sexual Offence.
- 4.3. Sexual Harassment can be obvious or indirect, repeated or one off.
- 4.4. Sexual Harassment can be experienced by any individual or group regardless of their characteristics, including age, race, sexual orientation, gender identity, gender expression, intersex status, marital or relationship status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction, social origin, disability or physical or mental disability.
- 4.5. Sexual Harassment may occur in instances where a person is not able to provide Consent. For example, a Student may find it difficult to refuse an advance from an academic supervisor out of fear of a potential impact on future results. In these circumstances, a perceived consensual relationship may be found to be Sexual Harassment.
- 4.6. Sexual Harassment is unlawful in employment, within the workplace and in educational institutions under the *Anti-Discrimination Act, 1977 (NSW)* and the *Sex Discrimination Act, 1984 (Cth)*.
- 4.7. Special circumstances relating to educational institutions include:
  1. It is unlawful for Staff or Students to sexually harass other Staff or Students or people seeking to become Staff, or Student and they may be held liable under the *Anti-Discrimination Act, 1977 (NSW)* and the *Sex Discrimination Act, 1984 (Cth)*.
  2. Supervisors and managers may be held liable for Sexual Harassment particularly if they fail to take appropriate action to prevent its occurrence or continuation in the circumstances as outlined in the Purpose and Scope section of this Policy.

## 5. What Sexual Harassment is Not

- 5.1. Sexual Harassment is not behaviour which is based on mutual attraction, friendship and respect. If the interaction is consensual, welcomed and reciprocated, it is not Sexual Harassment.

## 6. Personal Relationships between a Student and a Staff Member or Student and Homestay Host

- 6.1. This Policy specifically addresses close personal relationships involving a Staff member and a Student or between Students. Close personal relationships between Staff members are not within this Scope of this Policy and Staff should refer to UOWGE's *Conflict of Interest Policy*.
- 6.2. The existence of close personal relationships between a Staff member and a Student may give rise to actual, potential, or perceived conflicts of interest. Examples of circumstances that may indicate an actual, perceived, or potential conflict of interest may include where:
  1. One person is in a position to control or affect the career or other employment opportunity of the other; or
  2. One person is in a position to control or affect the grades, course work or educational opportunity of the other.
- 6.3. Where a close personal relationship between a Staff member and a Student arises or exists, Staff are required to comply with the UOWGE *Conflict of Interest Policy* and the UOWGE *Declaration of Interest Form*. These relationships must be disclosed to either UOWCA or UOWGE's People and Culture Division so that any professional and study related aspects of the relationship are appropriately managed.
- 6.4. Students are strongly encouraged to disclose close personal relationships to a senior Staff member of a relevant faculty or division.
- 6.5. Homestay Hosts must not have close personal relationship with a student that is or can be interpreted as having a personal rather than a professional interest in a student. Homestay Hosts must not have a sexual or romantic relationship with a student. Homestay Hosts and Homestay Students are required to comply with the *Homestay Policy*, Terms and Conditions and any other relevant policies, procedures, legislation, or regulation.

## 7. Sexual Harassment and Sexual Harm Prevention Strategies

- 7.1. UOWCA is committed to education and awareness strategies to prevent Sexual Harassment and/or Sexual Harm from occurring. Examples of preventative strategies include:
  1. Providing training and awareness sessions via Staff induction programs and initiatives;

2. All Staff are required to complete EO Online Module One (1) within six (6) months of their appointment and every two (2) years from then on. Completion of EO Online Module One (1) is a condition of probation;
3. Supervisors and managers are also required to complete EO Online Module Two (2);
4. All incoming Students are required to complete the Consent Matters Module within their first session (Consent resources are available in different languages); and
5. Communication of this Policy via relevant UOWCA communication channels (such as Universe or email).
6. UOWCA verifies the WWCC details of anyone that engages in child-related work (voluntary or paid). Offers of employment are not made until the WWCC is verified.
7. Homestay Host and all individuals in the household who are aged over eighteen (18) years of age must have a current WWCC.
8. Homestay Hosts must notify UOWCA within two (2) days in advance to obtain approval for all overnight visitors or visitors over the age of eighteen (18) years of age.

## **8. Support First**

- 8.1. UOWCA is committed to making its priority the safety and wellbeing of all individuals involved in incidents of Sexual Harm and Sexual Harassment.
- 8.2. In an emergency, individuals who have experienced or become aware of incidents of Sexual Harm and Sexual Harassment are encouraged to:
  1. Call an Emergency service such as Police or Ambulance on Triple Zero 000; or
  2. Contact UOW Security on +61 2 4221 4900 or raise an emergency alert through UOW's SafeZone app or dial #1 at any security phone. UOW Security will respond and contact the appropriate emergency service where required; or
  3. Go to the nearest Hospital Emergency Department where medical and counselling support may be provided.

- 8.3. Staff and Students travelling internationally for UOWCA business or coursework may seek emergency assistance by contacting UOW's Travel Risk Provider. Contact details can be found at <https://www.uow.edu.au/about/services/financial-services/frequently-asked-questions/>.
- 8.4. UOWCA strongly encourages all individuals involved in incidents of Sexual Harm or Sexual Harassment to seek support in the first instance. Support and assistance may be sought from UOWCA as well as other relevant external services.
- 8.5. Individuals involved in incidents of Sexual Harm and Sexual Harassment are encouraged to seek support from the following internal and/or external support services:
  1. Student Counselling Service: Students may contact the UOWCA Counsellor via email: [uowcollege-studentcounsellor@uow.edu.au](mailto:uowcollege-studentcounsellor@uow.edu.au) or via phone: +61 2 4252 8747.
  2. Safe and Respectful Communities Team (SARC): Staff members and Students may contact the SARC Team via phone: +61 2 4221 3344 or via email: [sarc-uow@uow.edu.au](mailto:sarc-uow@uow.edu.au).
  3. UOWCA Homestay Staff: Students and Staff may contact UOW College Homestay Business Hours Phone: 02 4221 5559- or 24-Hour Emergency Mobile: 0438 831 246 or via Email: [homestay-enquiries@uow.edu.au](mailto:homestay-enquiries@uow.edu.au)
  4. Students may call or text UOW's free 24-hour Student Wellbeing Support Line (Phone 1300 036 149 or Text 0488 884 164).
  5. Employee Assistance Provider: Staff may contact UOW's Employee Assistance Provider for either over the phone or face-to-face counselling at <https://www.uow.edu.au/about/services/safe-at-work/well-at-work/healthy-mind/employee-assistance-program/>.
  6. External Support Services: Visit UOW's Safe and Respectful Communities support page located at <http://uow.info/respect> for a list of external support services.
  7. A Translating and Interpreting Service (TIS) is available for those individuals who prefer to provide information in their native language. Phone:1300 655 010 or information can be found via their website: [TIS](https://www.tis.com.au).

8. Some incidents of Sexual Harm may constitute a criminal offence. Individuals are encouraged to contact Police to report alleged criminal offences. Refer to Section 12 of this Policy for further information. NSW Police also offer an online [Sexual Assault Reporting Option \(SARO\)](#) portal for individuals to make a record of what occurred without making a Formal Report.

## 9. Taking Action

- 9.1. UOWCA is committed to embracing Trauma-Informed Principles and a compassionate, Victim-Centric Approach when responding to incidents involving Sexual Harm. UOWCA recognises the importance of minimising the number of times an individual has to make a Disclosure.
- 9.2. Individuals involved in incidents of Sexual Harm and Sexual Harassment are encouraged to reach out to UOWCA for support and assistance.
- 9.3. Where appropriate and only where an individual **feels safe and confident** enough to do so, they may wish to raise their concern directly with the other party involved with the alleged Sexual Harm and/or Sexual Harassment. This may include talking to the other party or sending an email explaining the effect of the conduct and asking for it to stop.
- 9.4. Staff may also choose to report the matter to their manager or supervisor, where appropriate.
- 9.5. Where the individual feels it is not appropriate, or has taken steps as per Clause 9.3 and/or Clause 9.4 but wishes to take further action then they may choose to either:
  1. Make a Disclosure (refer to Section 10 of this Policy); or
  2. Lodge a Formal Report to UOWCA (Refer to Section 11 of this Policy).
- 9.6. Individuals who become aware of behaviour as described in Clause 3.2 of this Policy are encouraged to notify UOWCA, make a Disclosure or take action as discussed at Section 10 and Section 11 of this Policy.
- 9.7. Making a Disclosure does not automatically result in a Formal Report to UOWCA being initiated. There may be circumstances where UOWCA may be required to take certain action. (Refer to Clause 10.4 for further detail).
- 9.8. All parties involved in incidents of Sexual Harm and Sexual Harassment may have the support of another person (such as a personal friend, family member, UOWCA College Counsellor, Student or Staff member). However, the role of the support person is not to act as a representative or an advocate.
- 9.9. All parties involved in making a Disclosure or lodging a Formal Report to UOWCA are expected to maintain confidentiality and respect the privacy of all individuals.

## 10. Making a Disclosure to UOW College Australia

- 10.1. Individuals involved in, or become aware of, incidents of Sexual Harm and Sexual Harassment should contact the below Specialist Areas to make a Disclosure:



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1. Students may contact UOW's Safe and Respectful Communities team via [sarc-uow@uow.edu.au](mailto:sarc-uow@uow.edu.au) or on +61 2 4221 3344.
  2. Staff may contact:
    - a. The People and Culture Division via [uowe-people-culture@uow.edu.au](mailto:uowe-people-culture@uow.edu.au) or on +61 2 4239 3849.
- 10.2. A Disclosure may also be made via the following alternate avenues:
1. Any member of Staff in the first instance. The Staff member should then refer the Disclosure to their Manager or the Specialist Area for appropriate action, where relevant; and/or
  2. UOWCA College Counsellor via email [uowcollege-studentcounsellor@uow.edu.au](mailto:uowcollege-studentcounsellor@uow.edu.au) or via phone +61 2 4252 8747.
  3. UOWCA Homestay Staff: Students, Hosts and Staff may contact UOW College Homestay 24 hours on mobile: +61 438 831 246.
- 10.3. Anonymous Disclosures may be made via any of the above contact avenues. However, UOWCA's ability to respond may be limited.
- 10.4. UOWCA will, to the extent possible, respect the right of an individual to choose how to take forward a Disclosure. However, there may be circumstances where UOWCA (via the relevant Specialist Area) may be required to take certain action including:
1. Where a Disclosure has been made which indicates a risk of Sexual Harm and Sexual Harassment to any individual, UOWCA may refer the matter to UOW Security and/or the People and Culture division (for Staff-related matters) and/or a relevant external agency such as the Police for action. UOWCA may, where appropriate, inform the individual who has made the Disclosure of the action required to be taken.
  2. UOWCA's legal obligation to inform the Police of an incident involving Sexual Harm, and Sexual Harassment is discussed in Section 13 and Section 14 of this Policy.
- 10.5. When a Disclosure is made, Staff within the appropriate Specialist Area (as noted in Clause 10.1) will:
1. Explain available internal or external support services in the first instance;
  2. Provide assistance to ensure understanding of the available options. This may include making a Formal Report to UOWCA or reporting to a relevant external agency where appropriate;
  3. Encourage an individual who has experienced Sexual Harm, and Sexual Harassment to report any incidents that may constitute a criminal offence to Police;
  4. Consider appropriate measures to minimise any potential for harm or discomfort such as consideration of emergency accommodation, relocation, possible change in subject timetables for Students and leave and safety plans for Staff; and



5. Explain UOWCA's duty of care and/or legal obligations where applicable, such as reporting to Police or a relevant external agency.

## 11. Making a Formal Report to UOW College Australia

- 11.1. UOWCA is committed to investigating all Formal Reports to UOWCA of allegations of behaviour as described in Clause 3.2 of this Policy, made against any current Staff, or Student in the circumstances as outlined in this Policy.
- 11.2. UOWCA strongly encourages individuals who have experienced behaviour as described in Clause 3.2 of this Policy to lodge a Formal Report to UOWCA via the following Specialist Areas:
  1. UOW's Safe and Respectful Communities team via [sarc-uow@uow.edu.au](mailto:sarc-uow@uow.edu.au) or on +61 2 4221 3344 (for Students).
  2. The People and Culture Division via [uowe-people-culture@uow.edu.au](mailto:uowe-people-culture@uow.edu.au) or on +61 2 4239 3849 (for Staff);
- 11.3. Anonymous Formal Reports to UOWCA may be made via any of the above avenues. However, UOWCA's ability to respond may be limited and UOWCA may not be able to investigate the matter.
- 11.4. There may be some circumstances where UOWCA may not be able to investigate a Formal Report to UOWCA. Examples of the circumstances where UOWCA may not be able to investigate a Formal Report to UOWCA include where:
  1. There is insufficient information to enable an investigation to be carried out;
  2. The allegation is made against an individual who falls outside the Scope of this Policy;
  3. The Formal Report is not made by the individual who has experienced the behaviour as described in Clause 3.2 of this Policy;
  4. The Formal Report is lodged as an anonymous report; or
  5. The individual who lodged the Formal Report does not wish the substance of the allegation to be made known to the alleged party.
- 11.5. Where UOWCA decides that it will not investigate a Formal Report to UOWCA, it may, where appropriate, inform the individual who lodged the Formal Report to UOWCA of its decision and will provide appropriate support and referral pathways.
- 11.6. Where an allegation of Sexual Harm and Sexual Harassment may be identified as a criminal offence, individuals will be encouraged to report the matter to Police. Refer to Section 12 of this Policy for further information.
- 11.7. Where a Formal Report to UOWCA is lodged and an investigation is initiated, UOWCA's relevant Specialist Area will investigate the matter for the purpose of determining whether the behaviour, if proven, amounts to misconduct. Any such investigation will be managed in accordance with the relevant Codes, Standards, Policies and Procedures which may include (but are not limited to):

1. For Students: *UOWCA Student Conduct Standards (within the Academic Integrity and Student Conduct Policy)* and *UOW Student Conduct in Residences Policy*;
  2. For Staff: Relevant UOWGE Policies such as the *Code of Conduct* and *Bullying and Harassment Policy*.
- 11.8. There may be circumstances where the Specialist Area may be required to take certain action including:
1. Where a Formal Report to UOWCA has been made which indicates a risk of harm to any individual, UOWCA may refer the matter to UOW Security and/or the People and Culture Division (in cases involving Staff) and/or a relevant external agency for appropriate action. UOWCA may, where appropriate, inform the individual who has lodged the Formal Report of the action required to be taken.
  2. UOWCA may also refer a Formal Report to UOWCA to the Police or a relevant external agency where it has a legal obligation to do so. UOWCA may, where appropriate, inform the individual who made the Formal Report to UOWCA regarding the referral to an external agency. UOWCA's legal obligation to inform Police of an incident involving Sexual Harm and Sexual Harassment is discussed at Section 13 and Section 14 of this Policy.
- 11.9. Where an allegation of Sexual Harm or Sexual Harassment is referred to, or lodged with, an external agency for investigation, UOWCA may choose to not commence, or to suspend its investigation of a Formal Report to UOWCA, until those external investigations have concluded. UOWCA may take interim measures to safeguard the parties involved in an allegation of Sexual Harm or Sexual Harassment. Failure to comply with interim measures may result in disciplinary action in accordance with UOWCA and UOWGE's Codes, Standards, Policies and Procedures.
- 11.10. Outcomes of Formal Reports to UOWCA will be determined in accordance with relevant UOWCA and UOWGE Codes, Standards, Policies and Procedures and may include (but are not limited to):
1. Education and training strategies to ensure that Staff and Students are aware of appropriate standards of conduct;
  2. Disciplinary action, where a finding of misconduct has been made against a current Student or Staff (refer to Section 18 of this Policy);
  3. Identification of any changes and/or improvement opportunities to UOWCA and UOWGE Codes, Standards, Policies and Procedures, training or contractual arrangements; and/or
  4. Referral to Police or relevant external agency.

## **12. Reporting to Police**

- 12.1. Individuals are encouraged to contact Police to report alleged criminal offences and may seek support when reporting from UOW SARC or UOW Security. The options involving Police include:

1. Make a Formal Report to Police only.
  - a. An individual may choose to report the incident to Police and have the matter formally investigated by Police only. However, where UOWCA is made aware of an incident, there may be some instances where UOWCA may have a responsibility to take certain action, depending on the nature of the allegation and any potential risk of harm to other UOWCA Community members. Section 13 and Section 14 of this Policy provide details of the circumstances where UOWCA is required to report to Police.
  - b. UOWCA is committed to supporting the welfare of all persons involved in incidents of Sexual Harm and Sexual Harassment and implementing interim measures where appropriate.
2. Make a Formal Report to Police and UOWCA.
  - a. An individual may choose to report an incident to Police as well as lodge a Formal Report to UOWCA. Clause 11.9 of this Policy provides details of the circumstances where UOWCA may choose to not commence an investigation. Regardless, UOWCA will continue to support the welfare of all persons involved and implement interim measures where appropriate.
  - b. Where, following a Police investigation, a decision has been made by the Police to take no further action, or where judicial proceedings have completed (regardless of the outcome), UOWCA may still proceed with its investigation process as discussed in Clause 11.7.
  - c. Where a Staff member or a Student is convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of this Policy, the conviction/caution may be taken into consideration by UOWCA when proceeding with its investigation as discussed in Clause 11.7.

### **13. UOW College Australia's Obligation to Report – Students aged 18 and over**

- 13.1. An individual who has experienced Sexual Harm has the right to choose not to report the matter to Police but may wish to lodge a Formal Report with UOWCA only. UOWCA supports the rights of individuals in deciding not to report to Police.
- 13.2. UOWCA is not obliged to report the matter to Police if it has a reasonable excuse for not reporting. The following requirements of s.316(1A) of the *Crimes Act 1900* (NSW) must be satisfied to establish a reasonable excuse:
  1. The information held by UOWCA of the kind set out in Clause 13.1 (above) relates to a Sexual Offence or domestic violence offence;
  2. The person who has experienced the harm is eighteen (18) years old or over at the time the information is obtained; and

3. UOWCA believes on reasonable grounds that the person does not wish the information to be reported to the Police.
- 13.3. In some circumstances, UOWCA may be obliged to report the matter to Police in accordance with its obligations under s.316(1) of the *Crimes Act 1900* (NSW). The obligation to notify Police occurs where UOWCA:
  1. Knows or believes that an offence punishable by imprisonment for five (5) years or more has been committed by another person; and
  2. Knows or believes that the information it holds may be of material assistance in securing the apprehension or prosecution of a person who UOWCA believes may have committed a serious indictable offence.
- 13.4. Under Section 28F of the *Sex Discrimination Act* (Cth) 1984, UOWCA is bound to report any unlawful acts perpetrated by a UOWCA Staff member to the Australian Human Rights Commission. Under Section 28F, employers have a duty to notify the Australian Human Rights Commission as soon as practicable after becoming aware, or should reasonably be aware, of an incident of unlawful discrimination or Sexual Harassment in the workplace. The notification should include information about the incident and steps taken or proposed to be taken to address it. Refer to *Code of Conduct* and *Bullying and Harassment Policy*.

## 14. UOW College Australia's Obligation to Report – Students aged under 18

- 14.1. In addition to the mandatory reporting requirements in the *Children and Young Persons (Care and Protection) Act 1998* in relation to child protection reporting, there are provisions with the *Crimes Act 1900* (NSW) that relate to reporting child abuse to the Police.
- 14.2. Subject to Section 316A of the *Crimes Act 1900* (NSW), all adults in New South Wales (NSW) who know, believe or reasonably ought to know that a child abuse offence has been committed, and fail to report the information to the Police as soon as it is practicable, are guilty of an offence.
- 14.3. However, if you make a report to Secretary of Department of Communities and Justice via the Helpline Call 132 111 or [Child Wellbeing Unit](#), your responsibility to make a report to the Police is met. The [Mandatory Reporter Guide](#) provides up to date guidance and information as to how best to determine and report possible neglect or abuse of a child.

## 15. Homestay Host's obligation to Report

### 15.1. Students aged over eighteen (18)

1. Homestay Hosts who have reasonable grounds to believe a Student has experienced behaviour as described in Clause 3.2 of this Policy, should consider Making a Disclosure or Making a Formal Report to UOWCA as per Section 10 and 11 of this Policy.

### 15.2. Students aged under eighteen (18)

1. While Homestay Hosts may not be explicitly designated as mandatory reporters, if they have reasonable grounds to believe that a child is at risk of significant harm due to abuse or neglect, they should consider reporting their concerns to the NSW Department of Communities and Justice (DCJ) or the NSW Police Force. The welfare of the child should take precedence over any other considerations.
2. In Emergency situations, Homestay Hosts who have experienced or become aware of incidents of Sexual Harm and Sexual Harassment are encouraged to:
  - a. Call an Emergency service such as Police or Ambulance on Triple Zero 000; or
  - b. Contact UOW Security on +61 2 4221 4900 or raise an emergency alert through UOW's SafeZone app or dial #1 on any Security telephone. UOW Security will respond and contact the appropriate emergency service where required; or
  - c. Go to the nearest Hospital Emergency Department where medical and counselling support may be provided.

## 16. Other External avenues

- 16.1. In addition to NSW Police, individuals who wish to lodge a Formal Report of an incident of Sexual Harm and Sexual Harassment may do so via a relevant external agency such as the NSW Anti-Discrimination Board or the Australian Human Rights Commission. UOWCA encourages Staff and Students to lodge a Formal Report to UOWCA in the first instance.
- 16.2. Where a Formal Report is lodged with an external agency for investigation, UOWCA may choose to not commence, or to suspend its investigation of a Formal Report to UOWCA, until those external investigations have concluded. Where appropriate, outcomes of external investigations may be taken into consideration by UOWCA.
- 16.3. During the course of an external investigation, UOWCA may undertake appropriate actions in accordance with its Codes, Standards, Policies and Procedures and may also take interim actions to safeguard all parties involved in allegations of Sexual Harm and Sexual Harassment.

## 17. Witness intervention

- 17.1. Without putting oneself or others in danger, UOWCA encourages and values reasonable intervention by members of the UOWCA Community to prevent or stop behaviour as described in Clause 3.2 of this Policy, from occurring or continuing. If required, witnesses may contact UOW Security on +61 2 4221 4900 for assistance or raise an emergency alert through UOW's SafeZone app or dial #1 on any Security telephone.

## 18. Breach of this Policy

- 18.1. Allegations of behaviour, as described in Clause 3.2 of this Policy, by current Staff, Students or Homestay Hosts may, if proven, constitute misconduct pursuant to UOWCA and UOWGE Codes, Standards, Policies and Procedures, Terms and Conditions and be subject to disciplinary action. The standard of proof to be satisfied in any investigation involving an allegation of behaviour as described in Clause 3.2 of this Policy is 'on the balance of probabilities'.

### 18.2. For Current Students:

1. Allegations of behaviour, as described in Clause 3.2 of this Policy will be managed in accordance with the *UOWCA Student Conduct Standards (within the UOWCA Academic Integrity and Student Conduct Policy)*, *UOW Student Conduct in Residences Policy* and UOWCA and UOWCA associated procedures;
2. Where a finding of misconduct has been made, disciplinary action may be taken in accordance with the *UOWCA Procedure for Managing Alleged Student Misconduct*, *UOW Student Conduct in Residences Policy* and associated procedures depending on the nature and severity of the breach.

### 18.3. For Current Staff:

1. Allegations of behaviour, as described in Clause 3.2 of this Policy will be managed in accordance with the relevant Staff-related policies and processes.
2. Where a finding of misconduct is made, disciplinary action may be taken in accordance with those Policies and procedures.

### 18.4. For Current Homestay Hosts:

1. Allegations of behaviour, as described in Clause 3.2 of this Policy will be managed in accordance with this Policy and the *Homestay Policy*.
2. Where a finding of misconduct is made, disciplinary action may be taken in accordance with those Policies and procedures.

- 18.5. Disciplinary action for Students may include, but is not limited to, formal warning or reprimand, re-training, suspension, exclusion, expulsion or in the case of Staff, may include termination of employment or engagement.

- 18.6. Disciplinary action for Homestay Hosts may include but not be limited to termination of contract or engagement with UOWCA.

- 18.7. Any disciplinary action or termination taken by UOWCA may be in addition to the outcomes from any criminal proceedings or actions from relevant external agencies.

## 19. Recordkeeping, data collection, privacy

- 19.1. UOWCA will take all reasonable steps to ensure that information collected and used in relation to Disclosures and Formal Reports to UOWCA are handled in a confidential manner and in accordance with its privacy obligations and in line with UOWCA and UOWGE's relevant policies and processes, unless an exception applies under law.
- 19.2. Information will not be released outside UOWCA and UOWGE, unless the individual to whom the information relates provides Consent, or the release is otherwise permitted or authorised under law, such as where:
1. It is necessary to prevent a serious and imminent threat to the life, health, or safety of any individual; or
  2. UOWCA has a legal obligation to release the information, such as under subpoena; or
  3. There is a legal requirement to report to relevant agencies, such as NSW Police.
- 19.3. Records relating to Disclosures and Formal Reports to UOWCA will be retained in accordance with UOWGE's *Records Management Policy*.
- 19.4. Non-identifying information will be used by UOWCA to monitor trends on campus, inform our support strategies and design educational and preventative campaigns.
- 19.5. Disclosure of non-identifying information such as reporting numbers, training updates, and other trend data, will be reported quarterly to the Audit and Risk Committee.
- 19.6. Any reporting data involving UOWCA Staff will be reported quarterly to the Audit and Risk Committee.
- 19.7. UOWCA has an obligation to report incidents to TEQSA that significantly impact the safety and wellbeing of Students, such as recurring incidents of Sexual Assaults, Sexual Harassment, critical incidents and/or other material breaches of safety. Individuals are to contact the UOWGE Manager of Regulatory Affairs and Governance. Refer to *TEQSA Material Change Notification Policy* for further information regarding reporting requirements.
- 19.8. UOWCA has an obligation to ensure Staff who interact directly with students are aware of the registered provider's obligations under the ESOS framework and the potential implications for students arising from the exercise of these obligations.

## 20. Roles and Responsibilities

- 20.1. UOWCA has a legal responsibility to prevent Sexual Harm and Sexual Harassment and can be held liable for the behaviour of its Employees.

20.2. Students are responsible for complying with this Policy and other associated Policies and legislation, where relevant.

20.3. Staff are responsible for:

1. Complying with this Policy and other associated Policies and legislation, where relevant;
2. Providing support to individuals, where appropriate, in response to behaviour as described in Clause 3.2 of this Policy; and
3. Reporting any behaviour described in Clause 3.2 of this Policy to their Manager, Supervisor, or the Specialist Area (as described in Clause 10.1 of this Policy).

20.4. Senior Executives, Executive Directors, Managers and Supervisors are responsible for:

1. Taking all reasonable steps to promote the elimination of behaviour described in Clause 3.2 of this Policy in the workplace;
2. Modelling acceptable standards of conduct;
3. Taking appropriate action to prevent the occurrence or continuation of behaviour as described in Clause 3.2 of this Policy, in circumstances as outlined in the Scope section of this Policy;
4. Treating all incidents involving Sexual Harm or Sexual Harassment seriously, whether observed or reported, and taking immediate action to resolve the matter in accordance with UOWCA and UOWGE's Codes, Standards, Policies and Procedures;
5. Engaging with the appropriate Specialist Area to obtain information and guidance. Where the matter may be particularly complex or serious, it is to be referred to the Specialist Area; and
6. Understanding their obligations under this Policy.

20.5. The People and Culture Division is the Specialist Area responsible for:

1. Providing appropriate information and guidance regarding Staff related incidents of behaviour as described in Clause 3.2 of this Policy;
2. Managing Disclosures and/or Formal Reports to UOWCA lodged directly with the People and Culture Division by Staff, as detailed in this Policy; and
3. Managing Disclosures and/or Formal Reports to UOWCA which have been referred by Managers, where the matter may be particularly complex or serious.

20.6. The Safe and Respectful Communities (SARC) team is the Specialist Area responsible for:



1. Handling Disclosures and/or Formal Reports to UOWCA by Students, as detailed in this Policy;
2. Providing appropriate information and guidance regarding Student-related incidents of behaviour as described in Clause 3.2 of this Policy; and
3. Data management, education, and training.

20.7. UOW Security is responsible for:

1. Managing UOW and UOWCA emergency response to incidents involving Sexual Harm and Sexual Harassment; and
2. Responding to initial reports of incidents involving Sexual Harm and Sexual Harassment.
  - a. Response may include referral to UOW SARC for Student support; and
  - b. Developing safety plans in collaboration with UOW SARC and the Student (where applicable).

20.8. UOW College Student Services Manager is responsible for:

1. Handling Disclosures and Formal Reports received from UOWCA Students, Staff (disclosures or reports made to Staff from Students) UOW SARC Team and/or UOW Security;
2. Provide explanation of UOWCA's investigation processes and possible outcomes;
3. Provide information and support available such as UOWCA's academic consideration process for Students regarding their studies; and
4. Provide the appropriate information and guidance regarding Student-related incidents of behaviour as described in Clause 3.2 of this Policy.

20.9. Other roles and responsibilities are as detailed throughout this Policy.

## **21. Dissatisfaction with UOW College Australia's response under this Policy**

21.1. Members of the UOWCA Community (excluding Staff) who are dissatisfied with UOWCA's handling of a report of behaviour as described in Clause 3.2 of this Policy may lodge a formal complaint or concern:

1. In person to the Student Services Manager;
2. UOWCA's Student Feedback Online Portal at <https://www.uowcollege.edu.au/current-Students/Student-feedback/>

3. UOWCA *Student Grievance and Appeals Policy* and UOWCA *Student Grievance and Appeals Procedure* via email: [college-compliance@uow.edu.au](mailto:college-compliance@uow.edu.au)
4. UOW's Safe and Respectful Communities team (SARC) in the Student and Accommodation Services Division via email: [sarc-uow@uow.edu.au](mailto:sarc-uow@uow.edu.au) or via phone: +61 2 4221 3344.
5. Staff who are dissatisfied with UOWCA's handling of a report of behaviour as described in Clause 3.2 of this Policy may lodge a formal complaint via *UOWGE's Grievance Policy*.
6. Homestay complaints/concerns/feedback via email: [Homestay-enquiries@uow.edu.au](mailto:Homestay-enquiries@uow.edu.au)

## 22. Change History

Version	Approved By	Date Effective	Amendment
1	UOWCA General Manager	14 February 2024	New Policy Implemented.

## 23. Appendix 1 – Sexual Harm and Sexual Harassment Response Policy Guidance – Students aged 18 and over Flowchart

*This flowchart should be used as a guide only. Refer to the Sexual Harm Response and Sexual Harassment Prevention Policy document for details and definitions of terms.*

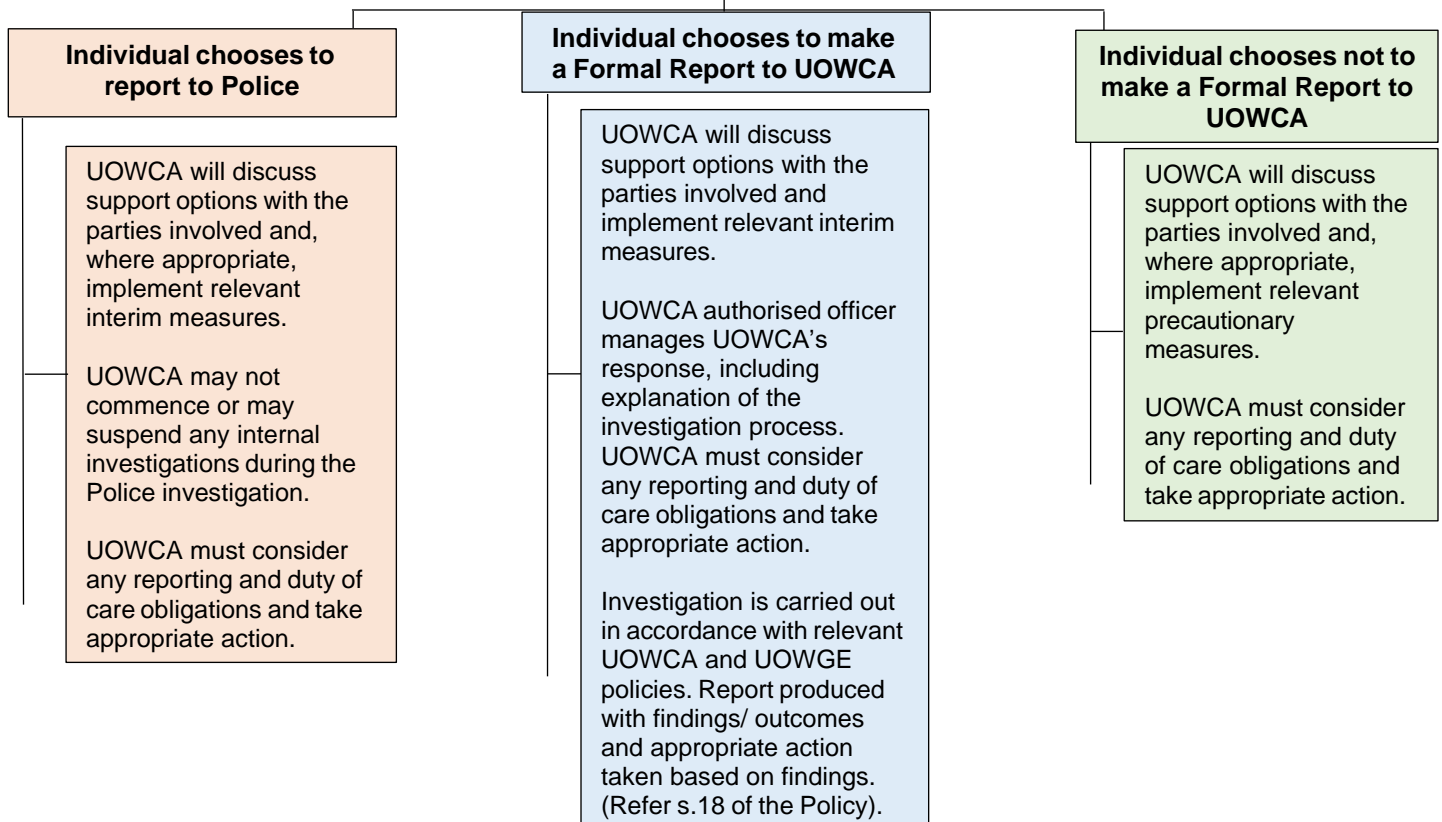
Individuals who have experienced or become aware of incidents involving Sexual Harm and Sexual Harassment are strongly encouraged to seek wellbeing support in the first instance.

- Student Counselling Service: Students may contact UOWCA Counsellor via email [uowcollege-studentcounsellor@uow.edu.au](mailto:uowcollege-studentcounsellor@uow.edu.au) or via phone +61 2 4252 8747.
- Students may call or text UOW's free 24-hour Student Wellbeing Support Line (call 1300 036 149 or text 0488 884 164).
  - If the incident requires emergency response, contact an appropriate emergency service (e.g.000) or UOW Security on +61 2 4221 4900 or UOW SAFE ZONE APP).

Individuals are encouraged to contact the appropriate Specialist Area to make a Disclosure or lodge a Formal Report to UOWCA. **Students** may contact the Safe and Respectful Communities Team: [sarc-uow@uow.edu.au](mailto:sarc-uow@uow.edu.au) / +61 4221 3344 for Disclosures and/or Formal Reports.

**Staff** may contact the The People and Culture Division via [uowe-people-culture@uow.edu.au](mailto:uowe-people-culture@uow.edu.au) or on +61 2 4239 3849.

Staff in the appropriate Specialist Area (as detailed above) will explain support and reporting options, which may include internal and external options.  
(Refer s.10.5 of the Policy)



## 24. Appendix 2 – Sexual Harm and Sexual Harassment Response Policy Guidance – Students aged under 18 Flowchart

*This flowchart should be used as a guide only. Refer to the Sexual Harm Response and Sexual Harassment Prevention Policy document for details and definitions of terms.*

Individuals who have experienced or become aware of incidents involving Sexual Harm and Sexual Harassment are strongly encouraged to seek wellbeing support in the first instance.

- Student Counselling Service: Students may contact UOWCA Counsellor via email [uowcollege-studentcounsellor@uow.edu.au](mailto:uowcollege-studentcounsellor@uow.edu.au) or via phone +61 2 4252 8747.
- Students may call or text UOW's free 24-hour Student Wellbeing Support Line (call 1300 036 149 or text 0488 884 164).
  - If the incident requires emergency response, contact an appropriate emergency service (e.g.000) or UOW Security on +61 2 4221 4900 or UOW SAFE ZONE APP).

Individuals are encouraged to contact the appropriate Specialist Area to make a Disclosure or lodge a Formal Report to UOWCA. **Students** may contact the Safe and Respectful Communities Team: [sarc-uow@uow.edu.au](mailto:sarc-uow@uow.edu.au) / +61 4221 3344 for Disclosures and/or Formal Reports.

**Staff** may contact the The People and Culture Division via [uowe-people-culture@uow.edu.au](mailto:uowe-people-culture@uow.edu.au) or on +61 2 4239 3849.

Staff in the appropriate Specialist Area (as detailed above) will explain support and reporting options, which may include internal and external options.  
(Refer s.10.5 of the Policy)

### Individual chooses to report to Police

UOWCA will discuss support options with the parties involved and, where appropriate, implement relevant interim measures.

UOWCA may not commence or may suspend any internal investigations during the Police investigation.

UOWCA must consider any reporting and duty of care obligations and take appropriate action.

### Individual chooses to make a Formal Report to UOWCA

UOWCA will discuss support options with the parties involved and implement relevant interim measures.

UOWCA authorised officer manages UOWCA's response, including explanation of the investigation process. UOWCA must consider any reporting and duty of care obligations and take appropriate action.

Investigation is carried out in accordance with relevant UOWCA and UOWGE policies. Report produced with findings/ outcomes and appropriate action taken based on findings. (Refer s.18 of the Policy).

### Individual chooses not to make a Formal Report to UOWCA

UOWCA will discuss support options with the parties involved and, where appropriate, implement relevant precautionary measures.

UOWCA must consider any reporting and duty of care obligations and take appropriate action.