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UNIVERSITY OF MELBOURNE
graduate student
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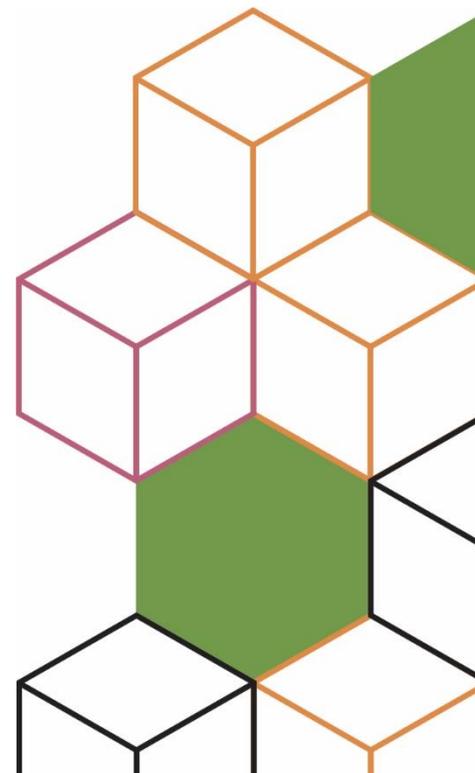August

2021

Graduate Student
Association

Submission to consultation on University of Melbourne Sexual Misconduct Prevention and Response Policy

Introduction

The Graduate Student Association (GSA) is the independent representative organisation for all graduate coursework and research students at the University of Melbourne. We are led by 8 GSA Board members and 10 Representative Council members who are all elected University of Melbourne graduate students. On behalf of over 29,000 constituents, we represent graduate student interests to the University and wider community, provide student engagement events, activities, and information to the graduate student community, and support 160 affiliated graduate student groups.

GSA's vision is *for inclusive, empowered graduate student communities that achieve meaningful and holistic university experiences.* Our objectives are *to achieve and support representation, academic support, transition to work, engaged and healthy communities, and organisational sustainability.*

Over the last 5 years, GSA has continuously advocated for the creation of the Sexual Misconduct Prevention and Response Policy, and participated and actively contributed on the Respect Taskforce. GSA is committed to promoting a safe environment for all graduate students, and is currently undertaking the Safety on Placement project. The project aims to consult with students on issues related to their experience of any sexual misconduct on compulsory placements and develop prevention and intervention strategies to ensure safety of all students.

GSA has participated in targeted consultation during the development of this policy recently. This has included participating in an initial interview and a group consultation meeting on the guiding principles. We have also attended several meetings and provided feedback to previous consultants who have identified the issues related to sexual misconduct or unacceptable behaviour at the University of Melbourne.

Executive summary

This submission outlines six key issues that GSA would like the University of Melbourne to consider to finalise this important policy, including information on implementation and mechanisms to review the effectiveness of the policy.

The six key issues include:
1. Ensuring student are included in the creation/ownership of the policy,
2. Improving and increasing the accessibility of the policy,
3. Providing clarity on processes outlined in this policy including legal process options,
4. Explicitly including off-site learning environments including placement sites/internships,
5. Explicitly including the research supervision relationship, and

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6.   Embedding student engagement in implementation and evaluation.

We also provide specific comments on sections on the policy below.

Key issues

Student ownership of the policy
During previous stages of consultation, GSA has provided advice that, for this important policy to be effective, students must feel a sense of ownership of the policy. This can only be achieved through genuine student engagement strategies during the creation, implementation, and evaluation phases of the policy.

Consultation through the Policy Hub permits students to provide one-way feedback during a brief two-week period. This mechanism alone is insufficient for genuine consultation. It is GSA's view that the Policy Hub is not accessible enough for students and is not an effective mechanism for engagement. We believe students' ownership over the policy can be strengthened by actively engaging students at all levels to provide input in an interactive process. The engagement activities need to consider the diversity of students involved (including offshore students) and provide range of mechanisms to capture a wider audience and their input. This process should be accessible to all taking into consideration the adverse impacts students may be experiencing due to the current global pandemic.

Accessibility of policy
For the Sexual Misconduct Prevention and Response Policy to be useful for victim-survivors, the language used must be accessible, culturally sensitive, and understandable by our diverse University community.

We are concerned that the accessibility of the policy is reduced by unnecessary (in many cases repeated) information, legalistic language, and circular definitions. The language used should take into consideration the mental health and trauma experienced by the victim-survivors and these barriers in relation to comprehend complex concepts and language. This is compounded for students who speak English as an additional language. While international students must demonstrate proficient English skills to an academic standard (such as through IELTS and TOEFL), GSA has received anecdotal feedback that international students who may have experienced trauma, whether in Australia or overseas, may find the process daunting and distressing. The University should ensure this policy in particular can be easy to read and in plain language. We suggest using plain language, diagrams and examples where possible to improve students' understandings of the policy. In addition to our specific comments tabulated below, we also advocate for student engagement focus groups to be invited to provide feedback on the language of the policy and identify elements of the policy that may be quite new

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for international students or students who may speak English as an additional language.

To ensure students are aware of the policy once finalised, GSA strongly recommends engagement initiatives that disseminate information at all levels. We suggest visual-aid complementary tools be provided and additional videos and student led engagement strategies be initiated. We also agree that the Frequently Asked Questions fact sheet that explains the policy in plain language would be a useful resource for victim-survivors especially those with language barriers.

Legal processes

Students who make a disclosure or complaint to the University also have a right to make a report to the police. The policy first refers to reporting to Victoria Police in Section 4.9, with more extensive guidance provided in Sections 5.34 to 5.41.

We are hopeful that the Sexual Misconduct Prevention and Response Policy will guide processes that support intervention and resolution of sexual misconduct reported to the University. To demonstrate the University's commitment to supporting victim-survivors we believe there should be strong and clear messaging in the policy advising students to pursue legal and judicial avenues (if they do not have confidence in the internal process). This statement could be made in the Scope section by outlining that victim-survivors have a right to report to police if the student wishes to and will be supported by the University in doing so. GSA believes that the students should be provided information of all legal and judicial options they wish to pursue to ensure they have quick resolution to the matter ensuring natural social justice principles.

Placements and online environments

GSA has raised the concern of how the policy is to apply in off-campus learning environments, including external placements, internships, and online learning settings on several occasions. GSA does not believe this policy has addressed the concerns raised at all.

Placements and internships are not specifically addressed in the policy. It is imperative that clear information is provided as poor understandings of reporting channels is a concern identified from the preliminary results of our Safety on Placement project. Clarity needs to be provided on how this policy will be applied for students on placement, particularly when they may need to report sexual misconduct perpetrated by staff, clients, or patients at the placement location.

Similarly, clear guidance needs to be provided for sexual misconduct that occurs in online spaces. Following the experience during the pandemic and move to online service delivery, there needs to a specific section providing information on how online sexual harassment is prevented and/or stopped. The University's

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involvement in the eSafety initiative with Universities Australia should be used to inform this policy's application to online sexual misconduct.

Case study: Student X was on teaching placement. They were harassed by their mentor teacher who made inappropriate comments about their appearance, asked about their marital status, and did not respect their personal space. Student X did not want to report this as they believed their department would not be supportive, based on their impression that they would only care about their institutional reputation.

Research supervisors

The relationship between graduate researchers and their supervisors has been identified as an area of risk due to the inherent power imbalance. Due to the importance of the supervision relationship to graduate researchers' research progression and career formation, any incidents of sexual misconduct require strong policy settings including assurances that the student's research will not be derailed as a result of reporting. This feedback was provided by GSA at earlier stages of the consultation. We welcome the inclusion of alterations to the supervision relationship within the support which may be provided (Section 5.23d) and recommend improving clarity around processes for graduate researchers. This could be strengthened by the inclusion of relevant examples.

GSA reiterates the policy should explicitly inform the students that their employment or research would not be adversely impacted if they lodge a formal complaint against their supervisor or mentor. It is crucial that students feel safe at work (even on an online platform), and the University should take all steps to provide this assurance. For example, arrangements should be made by the University for students to be allocated proper supervision to take over projects and help students to finish their work or even an unfinished article during the investigation period.

Case study: Student X, an international PhD Student, reaches out to a GSA Elected Representative Member and narrates incidents where she has observed her supervisor makes offensive jokes/comments at their catch ups. Student X feels extremely uncomfortable and recently she has been experiencing a great deal of stress.

Student X informs the GSA Elected Representative Members she has read the policies and visited all the UoM websites in relation to this matter. She is not confident that the University of Melbourne will understand her concern and worried if she makes a complaint, she will be victimised and will be unable to pursue her academic ambitions. In her experience Student X felt students who makes complaints against supervisors have often had to leave the University.

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Independence of implementation and evaluation

The policy commits to independent reviews every three years (Section 4.3). We believe that students and independent student associations should be engaged in co-designing the review process as well as participating in reviews. This should be clearly articulated in the policy to increase and support student's confidence.

Further comments

The specific comments that follow are related to these six key issues articulated above.

Section: Introduction

The policy should be framed with an introduction that communicates empathy and assurances to victim-survivors. The introduction should emphasise the University's zero-tolerance approach to sexual misconduct and inappropriate behaviour, and commitment to providing a safe environment for the University community. We agree with the inclusion of links to support services upfront for those reading the policy who may require additional support. Where the policy is available online, it should also contain a "quick escape" button in line with best practice for resources concerning sexual violence.

Section 1: Objectives

Overall, we agree with the objectives presented in the policy. We suggest further clarity around the objective on encouraging safe bystander intervention.

1. Objectives	
1.1a	Agree
1.1b	Instead of "appropriate action in response", it should be "appropriate actions to prevent and respond to".
1.1c	Instead of "prioritise the safety and wellbeing of individuals", it should be "assuring and prioritising the safety and wellbeing of individuals".
1.1d	Agree
1.1e	Agree. In line with the Diversity and Inclusion Policy of the University of Melbourne, GSA recommends elaborating and provide clarifications of the groups, namely transgender and gender diverse people, people with English as an additional language, Aboriginal and Torres Strait Islander peoples, and others. We note that gender diversity is not mentioned in this policy. In line with the University's commitment to creating an inclusive and safe environment through their new Gender Affirmation Policy, we recommend explicitly including students who are transgender and gender diverse in this policy, to signify that this policy is accessible for them.

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1.1f	Wording of sentence can be made simpler, for example: "commit to a trauma-informed approach that upholds the safety, dignity and wellbeing of individuals who report sexual misconduct and provide appropriate support and assistance".
1.1g	Agree
1.1h	Agree
1.1i	We agree on the inclusion of encouraging safe bystander intervention. However, little information is provided in the later section on bystander intervention. Clarity of definition of a bystander should be provided at the outset to ensure there is clear understanding.
1.1j	Agree

Section 2: Scope

If the intention of the University is for this policy to cover a wide breadth of the parties involved, there needs to be clarity provided on how the policy can be implemented effectively. There is a level of ambiguity as noted in the examples below.

2. Scope	
2.1a	What is an 'officer' of the University and how does it differ from an employee? This is not defined in the policy. It should be noted here that there are many students who are also staff, and it may be unclear which processes apply to them. As noted earlier we recommend a plain language approach which here should include clarification of the term "controlled entities". *Case study: Ms C is a PhD student and works in the same faculty on another research project. She has very positive relationship with her supervisor and progressing well in her PhD Program. Another staff member who works in the same faculty but does not have direct supervision responsibility of her role, invites her for a date. Ms C politely refuses however is repeatedly harassed via email and texts.* *Ms C decides to quit her role for the research project as she was advised by her PhD supervisor there is nothing much he can do, and she needs to report the matter as an employee.* *Ms C finds all the processes very confusing and to reduce her stress decides to leave the job. She then soon realises there are other employees too who have similar issues with this particular staff member who constantly sends invites to young women and asks them for dates.*

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2.1b	It is unclear if there are established processes for subcontractors and visitors, and how these parties will be made aware of the policy.
	As an example, clarity could be provided regarding implementation of the policy for vendors or construction workers on campus. GSA is also keen to know how this can be enforced and monitored with the large-scale projects subcontracted externally.
	One suggestion would be comprehensive information and education strategies should be provided to vendors and subcontractors alongside their required OHS and induction modules.
2.2	Again, it is unclear who these "other individuals" may be. For example, would this include a student of another institution who has attended UoM for an event or a cross-institutional enrolment? Not offering clarity indirectly does not increase access for individuals who may understand if their work or roles fall within the "other individuals' category)
2.3	This suggests that people cannot make complaints outside of "University matters". For example, if a student has been assaulted by another student in the past, and then that person turns out to be their classmate or teacher, this policy would be useless to them.
	Incidents that occur outside of "University matters" should be dealt with where both individuals are members of the University community, especially in situations where they may interact.
2.4	Agree

Section 3: Authority

We agree with the inclusion of the list of relevant legislation. To improve accessibility of the policy, links could be provided for each. Furthermore, information could be included on where students can access legal advice concerning these laws.

Section 4: Policy

We recommend the inclusion of examples and use of simpler language in this section to improve accessibility of the policy. Importantly, the section 4.15 needs to be modified so as not to be punitive to victim-survivors.

4. Policy	
4.1a	Agree
4.1b	Agree
4.1c	Agree

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4.1d	This could also have examples, such as between students and teaching staff, and graduate researchers and supervisors, and students undertaking cross-institutional subjects.
4.2	It is unclear what message is being communicated here. This statement may be unnecessary. Any superfluous content in the policy should be removed as this is an additional barrier to victim-survivors to interpret the policy and access information about processes and their rights.
4.3	As advocated before, it is important that student associations and students are proactively engaged in developing and implementing the review process.
4.4a	Agree
4.4b	GSA supports that the University should have best practice in relation to prevention. We would like to ensure there is student engagement in developing and maintaining the framework for best practice in prevention. Furthermore, we are seeking clarification on where the documentation will be provided on how this will be undertaken. For example, it is unclear how those who do not elect to undertake bystander training will be engaged with this policy and their role in prevention. It is also unclear how prevention will be embedded across this University and how this will be resourced. GSA looks forward to being engaged in early conversations on what strategies will be undertaken to resource and implement this important policy with a clear timeframe. *Case study: Mr Y shares a house with Ms X and they both study at UoM. Ms X comes home one day very distressed and cries about the issues she is having with her tutor who constantly sends her offensive texts and requests sexual favours. Ms X has informed Mr Y that she has two other students who have been told about her concerns. Ms X has decided to make a complaint and seeks Mr Y's help.* *Mr Y is worried what is the best way he can support Ms X as a bystander. Ms X also wants to explain to the other students the bystanders' role. However, both Ms X and Mr Yare very confused with the range of definitions provided.*
4.4c	Agree
4.4d	Agree
4.4e	Agree and this should be resourced appropriately. This statement should also acknowledge intersectionality and the diversity of cultures within our University community.
4.4f	This should also mention engaging students actively with the review process.

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4.4g	There needs to be a mechanism established for fair decision-making, following principles of social justice and equity, and clarity on processes for appeal if this mechanism fails.
4.4h	There should be a commitment made to supply written support resources in languages other than English that are commonly spoken by our international student community. Support services available must take cultural and linguistic differences into consideration. Further strategies should be taken by the University to ensure there is a commitment to genuine consultation with community stakeholders with regards to the accessibility of resources and policy documents.
4.4i	Agree
4.5	Agree
4.6	Agree. It is important that the type of support is described here, as many students have limited awareness of the Safer Community Program. The resources provided should include agencies external to the University as some students may require specialised services or wish to seek independent support.
4.7	This would be more useful with a brief description of the relevant support provided by Campus Security.
4.8	Agree
4.9	Agree. This section on support services should also contain brief information about obtaining advice through the UMSU Advocacy & Legal Service.
4.10 – 4.16	Information should be provided about where students can seek support in understanding the privacy policy and how to obtain their own records. This section is also written using a lot of legal and technical terminology that may be difficult to parse for someone who is dealing with trauma. Plain language explanations here would be a big improvement. Further clarity should be provided to students on how records are stored, who can access records, and for what period the records will be retained. Noting that annual reports on the anonymous reporting system have not been received since an initial report in 2019, GSA would like assurances of an enhanced and regular mechanism for reporting information collected.
4.15	This section needs to be modified to take into account the needs of victim-survivors. GSA is very supportive to understand that all parties involved have a fair process and outcome while an investigation is underway. However, the requirement for confidentiality could be problematic for victim-survivors, as the following examples illustrate:

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	• A student could not disclose to teaching or supervision staff, however, they may require accommodations such as extended deadlines. • Similarly, employees could not disclose to their manager. • A student who is a member of a club or group at University or outside University could not tell the club leadership. • A student would not be able to speak about it to media or on any public platforms, should they choose to. It is also problematic if this applies to both complaints and disclosures, that is, where the victim-survivor has decided not to proceed with a complaint. Furthermore, a brief note should be provided to students to provide clarity on the consequences of breaching confidentiality.

Section 5: Procedural principles

Overall, we agree with the intent of the procedural principles. It would be helpful to provide clear diagrams to articulate the processes, give practical examples, explain the relevance to off-site settings such as conferences and placements, and provide information about the UMSU Legal service so students feel support. As victim-survivors may be referring to this policy when they have recently experienced trauma, it is crucial for this information to be as accessible as possible.

5. Procedural principles	
5.1	Agree
5.2	Agree
5.3	Agree
5.4	It would be clearer at this point to create two branches of the policy: for staff and for students. Ideally, this should be presented as a diagram which outlines the disclosure and complaints channels outlined in 5.4 – 5.22. For students who are also staff, it should be made clear which avenue they should pursue.
5.5	It is unclear if HR or line managers would be trained to refer to the channels outlined in 5.4.
5.6	There should be a link provided to contact the Academic Registrar to make a complaint.
5.7	Agree and very clear.
5.8	This should be presented as part of a diagram.
5.9	Agree
5.10	This statement is unnecessary.
5.11	It is unclear when the University may choose to investigate, and when they are obligated to investigate.

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5.12	The individual should also be supplied with a referral to UMSU Legal and to community legal services.
5.13	Agree
5.14	It should be stated that this policy supersedes the others where a contradiction arises.
5.15	Agree
5.16	An example would help here, in particular, regarding students on placement, and students and staff at offsite conferences.
5.17	Agree
5.18 – 5.19	These should be combined into one shorter point.
5.20	Agree
5.21	Agree
5.22	This should contain information about what happens if the complainant or respondent ceases to be a staff/student during this time.
5.23	The "Support" heading is unclear/inaccurate – this could be taken to refer to support services only.
5.24	Is there any scope to mention behavioural change programs here?
5.25 – 5.26	This statement should say who is responsible to take actions and make decisions.
5.27	Agree. However, it should state who arrives at the decision and how independence is maintained in this process.
5.28 – 5.33	This is another area which could be split into separate student and staff processes, with flowcharts to illustrate the information simply.
5.28	Agree
5.29	Further detail should be provided here so readers do not have to read the entire linked policies.
5.30	Agree
5.31	Agree
5.32	Agree
5.33	Agree
5.34	To ensure that there is a common understanding on the legal definition of sexual misconduct and assault, the policy should include examples and explanations in plain language. The legalistic language may be barriers for survivors who often find it traumatic to take the first step to even consider reporting and seeking help. Simplifying language and process will support effective reporting.
5.35	Provide direction about where students and staff can seek free legal advice (UMSU Legal and community legal centres). A link to Safer Community Unit should also be made here, in case

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	someone has not read the whole policy and is only referring to this part to seek information about reporting to police.
5.36	Agree
5.37	It is unclear if reporting to these agencies should be in addition, or instead of, reporting to police.
5.38	Examples would help here. How is the decision made to suspend internal processes?
5.39	Agree
5.40	Agree
5.41	Agree
5.42	Agree. Please note for sections 5.42 – 5.44, case studies provided in simple language will support students to develop a better understanding of the role of the bystander.
5.43	It should be stated how this is to be achieved.
5.44	Agree. There also needs to be a commitment that bystanders will not face adverse consequences due to reporting or otherwise supporting victim-survivors.
5.45	'Victimise' needs to be defined in plain language here.
5.46	Agree
5.47	Specify through which policy or how disciplinary actions may be taken regarding victimisation.
5.48	Should this contain a provision for decision makers to recuse themselves from investigations where they may have a bias? Furthermore, information should be provided to students to clarify who would be responsible for declaring conflicts of interest.
5.49	Agree
5.50	Agree

Section 6: Roles and responsibilities

This section would be confusing for students to interpret. Clear flowcharts with separate staff and student processes, as articulated above, would assist. A point of contact in each academic division would also assist students in navigating the processes. GSA recommends that there needs to be clarity on who is defined as the dedicated officer or who qualifies as a delegate. This information has to be clear and specific to avoid any confusion in the process.

6. Roles and responsibilities	
Complaints against employees	This should specify "including teaching staff and research supervision staff". There should be a dedicated role in the University, with dedicated officers in each academic division, who is responsible for complains and investigations – not the HR director or others.

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Disciplinary action against employees covered by the enterprise agreement	This may be confusing for students to understand. At a minimum, it should be stated how to determine if an employee is covered by the enterprise agreement or if there are classes of employees who are not.
Complaints and decisions against students	Agree

Section 7: Definitions

The list of definitions requires modifications for accessibility. We suggest splitting this into two lists: one for plain language definitions, and another which contains links to policies and anything that must legally be included.

7. Definitions	
Academic Board Regulation	This is unnecessary as the link is already included in the two previous usages of 'Academic Board Regulation'. As stated above, unnecessary information should be taken out to improve accessibility of the policy.
Appropriate Workplace Behaviour Policy	This is also unnecessary as the link is already included where the policy is referred to.
Bystander	Agree
Complaint	Agree
Complainant	Agree
Confidential information	The definition is circular. This would be unhelpful for someone who does not understand the concept or boundaries of confidentiality.
Consent	Agree
Disclosure	It is unclear of 'part of the University' would include students and others who are not employees or contractors.
Employee	This part of the definition is difficult to understand: "who is a national system employee within the meaning of the Fair Work Act 2009 (Cth)."
Enterprise Agreement	Agree

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Fraud and Corruption Management Policy	This is unnecessary as the link is provided where the policy is referred to.
Guiding principles	Agree
Inappropriate Workplace Behaviour Line	Agree
Includes and including	This definition is unhelpful.
Privacy Policy	This is unnecessary.
Respondent	Agree
Sexual assault	Agree
Sexual harassment	Agree
Sexual misconduct	Agree
Staff	This definition is unhelpful.
Student	This definition is unhelpful. They could repeat the definition from the linked document here.
Student Appeals Policy	This is unnecessary.
Student Complaints and Grievances Policy	This is unnecessary.
Student Conduct Policy	This is unnecessary.
Trauma-informed	Agree
University	Agree
University matters	Disagree and see earlier notes on 2.3.
University community	Agree
University Executive	Agree

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Vice-Chancellor Regulation	This is unnecessary.
Victimisation	The actual definition should be included here, rather than a link to another policy.
Visitor	Agree

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