

 <p>UNIVERSITY of the WESTERN CAPE</p>	UNIVERSITY OF THE WESTERN CAPE		
	SEXUAL VIOLENCE POLICY	Reference Number	C2018/4
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UNIVERSITY OF THE WESTERN CAPE (UWC)

SEXUAL VIOLENCE POLICY

(JULY 2018)

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1. Preamble

Whereas the University, as a public institution, recognises that the Republic of South Africa is a democratic state founded on, *inter alia*, the protection and the promotion of human dignity, equality, human rights and freedom promotion together with non-racialism and non-sexism and is committed to the same level of protection and promotion of these values;

Whereas the University is concerned about the commission of sexual offences at Universities and its impact on affected persons, the University community and society as a whole;

Whereas the increasing prevalence of the commission of sexual offences at Universities and society as a whole is a social phenomenon rooted in the systematic exclusion and dysfunction in society, a phenomenon from which the University is not immune;

Whereas there is a need to put in place adequate procedures to deal with allegations of the commission of sexual offences committed, at the University including locations controlled by the University or affecting the University community, in an effective, non-discriminatory, clear and uniform manner.

Whereas by putting in place adequate, clear and effective procedures, the University aims to ensure that the relevant common law and statutory law provisions are followed in a uniform and co-ordinated manner and the rights as enshrined in the Bill of Rights including the rights of equality, privacy, dignity, freedom and security (including the rights to be free from all forms of violence) of all affected persons are observed;

In addition, the University recognises the right of a perpetrator alleged to have committed a sexual offence, the right to be presumed innocent until proven guilty and the right to a fair trial and/or just administrative action.

Therefore, the University through this Policy, aims to clarify the procedures where the commission of sexual offences is reported at the University; having regards to the rights of complainants and alleged perpetrators.

2. DEFINITIONS

1. **ALLEGED PERPETRATOR** a person who allegedly commits an offence.
2. **COMPLAINANT/SURVIVOR** any person who alleges that he or she is being/ has been subjected to an act of sexual violence.
3. **CONSENT** is about communication. It is an active, positive, voluntary agreement to engage in a sexual act. Giving consent for one activity, one time, does not mean giving consent for increased or recurring sexual contact. Having sex with someone in the past does not automatically give that person permission to have sex with same person again in the future. Assumptions of consent therefore cannot be made where a person is incapable of consenting – due to intoxication for instance, or where a person is induced to engage in the activity by someone abusing a position of trust, power or authority.
4. **CYBER SEXUAL VIOLENCE** includes but is not limited to knowingly harassing a person through electronic media such as web postings, text or email messaging by publishing, distributing, making available or advertising an intimate image, text or recording of a person, without their consent.
5. **DISCLOSURE** is the sharing of information by an individual with a Member of the University Community regarding an Incident of Sexual Violence experienced by that individual.
6. **EVIDENCE DNA** evidence from a crime like sexual assault can be collected from the crime scene, but it can also be collected from a person's body, clothes, and other personal belongings. A Survivor may choose to have a sexual assault forensic exam, sometimes known as a "rape kit," to preserve possible DNA evidence and receive important medical care. The Survivor does not have to report the crime to have an exam, but the process gives the Survivor a chance to safely store evidence should the Survivor decide to report at a later time.
7. **FIRST RESPONDER** involves qualified staff, primarily in the services units whose job entails being a first point of call or respondent in an emergency as well as other identified, trained members of the university community that play a key role in providing support and guiding the process of addressing instances of sexual violence.
8. **GENDER BASED VIOLENCE** is violence which occurs between individuals, often men and women in relationships, in the home, at the workplace and in the community. Gender violence is about power and control. It takes the form of physical, emotional, sexual, economic or spiritual abuse, e.g. rape, domestic violence, sexual harassment.

9. HUMAN TRAFFICKING is the trade of humans for the purpose of forced labour, sexual slavery, or commercial sexual exploitation for the trafficker or others
10. INTENT where a person deliberately or on purpose, decides and sets out to commit a crime.
11. INTIMATE PARTNER ABUSE any behaviour within an intimate relationship that causes physical, psychological or sexual harm to those in the relationship, including acts of physical aggression, sexual coercion, psychological abuse and controlling behaviours.
12. MEMBER OF THE UNIVERSITY COMMUNITY includes all registered students including post-doctoral fellows and all staff including contractors and members of Council and Convocation as well as visitors on all UWC campuses.
13. RAPE is a type of sexual violence where a person unlawfully and intentionally commits an act of sexual penetration with a complainant without the consent of the complainant. Rape usually involves coerced sexual intercourse or other forms of sexual penetration carried out against a person without that person's consent. The act may be carried out by physical force, coercion, abuse of authority, or against a person who is incapable of giving valid consent, such as one who is unconscious, incapacitated, has an intellectual or physical disability or is below the legal age of consent. Compelled Rape is where a person unlawfully and intentionally compels a third person without the third party's consent, to commit an act of sexual penetration against a complainant without the complainant's consent.
14. RAPE CULTURE is an environment in which rape is prevalent and in which sexual violence against women is normalized and excused in the media and popular culture. It is often perpetuated through the use of misogynistic language, the objectification of women's bodies, and the glamorization of sexual violence, thereby creating a society that disregards women's rights and safety.
15. REPORTING is the sharing of information by an individual with a designated Member of the University Community regarding an Incident of sexual violence experienced by that individual, with the intention of initiating a formal process outlined in this Policy.
16. SEXUAL ASSAULT where a person unlawfully and intentionally sexually violates a complainant, without the complainant's consent; or who inspires the belief in the complainant that the complainant will be sexually violated. Sexual assault is any form of sexual contact or attempted sexual contact including where a person is threatened, coerced, or forced to comply against his/her will, or is incapable of giving consent. This sexual contact can range from unwanted sexual touching to forced sexual intercourse; and can involve situations where sexual activity is obtained by someone abusing a position of trust, power or authority. Compelled Sexual Assault is where a person intentionally and unlawfully compels a third party without the third party's consent to commit a sexual violation with the complainant without the consent of the complainant.
17. SEXUAL HARASSMENT includes but is not limited to:

- i. Unwelcome sexual attention from a person who knows or ought reasonably to know that such attention is unwelcome;
- ii. Unwelcome explicit or implicit behaviour, suggestions, messages or remarks of a sexual nature that have the effect of offending, intimidating or humiliating the complainant or a related person in circumstances which a reasonable person having regards to all circumstances would have anticipated that the complainant or related person would be offended, humiliated or intimidated.
- iii. Implied or expressed promise of reward for complying with a request or suggestion for a sexually oriented request; or including, where a person who is in a position of authority rewards attempts to reward or offers to reward inappropriate favours or incentives to those who respond to his/her sexual advances,
- iv. Implied or expressed threat of reprisal or actual reprisal for refusal to comply with a request or suggestion for a sexually oriented request;
- v. Verbal forms of sexual harassment including unwelcomed innuendoes, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcomed graphic comments about a person's body made in their presence or directed toward them, unwelcomed and inappropriate enquiries about a person's sex life, whistling of a sexual nature and the sending by electronic means, or otherwise, of sexually explicit texts or pictures.
- vi. Non-verbal forms of sexual harassment include unwelcomed gestures, indecent exposure, and the display or sending by electronic means, or otherwise, of sexually explicit pictures and objects
- vii. Engaging in verbal, electronic or any other forms of communication aimed at sexually harassing the target,
- viii. Sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or the use of social media or any other object/s of a sexually offensive nature or leaving them where they will be found, given to or brought to the attention of the targeted person/persons.

For the sake of clarity, the conduct listed above may amount to sexual harassment, irrespective if it is a once-off incident, behaviour or persistent.

18. **SEXUAL OFFENCE** includes all types of sexual violence namely rape; compelled rape; sexual assault, compelled sexual assault, compelled self-sexual assault, sexual harassment, sexual acts or self-masturbation; exposure or display of or causing exposure or display of genitals, anus or female breasts or child pornography or engaging sexual services of persons for reward, favour or compensation, incest, bestiality, sexual acts with a corpse, sexual acts with minors or mentally disabled persons, incitement, or inducing

(including aiding, abetting, instigating, instructing, commanding, counselling on procuring) someone to commit a sexual offence.

19. SEXUAL PENETRATION includes any act which causes penetration to any extent whatsoever by –
 - (a) the genital organs of one person into or beyond the genital organs, anus, or mouth of another person;
 - (b) any other part of the body one person or, any object, including any part of the body of an animal, into or beyond the genital organs or anus of another person; or
 - (c) the genital organs of an animal, into or beyond the mouth of another person, and “sexually penetrates” has a corresponding meaning.
20. SEXUAL VIOLENCE is an all-encompassing term that refers to any sexual act or attempt to obtain a sexual act by violence or coercion. This covers acts directed against a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes rape, sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, human trafficking, degrading sexual imagery, cyber sexual violence or harassment and sexual exploitation.
21. SEXUAL VIOLATION includes any act which causes –
 - (a) direct or indirect contact between the –
 - (i) genital organs or anus of one person or, in the case of a female, her breasts, and any part of the body of another person or an animal, or any object, including any object resembling or representing the genital organs or anus of a person or an animal;
 - (ii) mouth of one person and –
 - (aa) the genital organs or anus of another person or, in the case of a female, her breasts;
 - (bb) the mouth of another person;
 - (cc) any other part of the body of another person, other than the genital organs or anus of that person or, in the case of a female, her breasts, which could-
 - (aaa) be used in an act of sexual penetration;
 - (bbb) cause sexual arousal or stimulation; or
 - (ccc) be sexually aroused or stimulated thereby; or
 - (dd) any object resembling the genital organs or anus of a person, and in the case of a female, her breasts, or an animal; or
 - (iii) mouth of the complainant and the genital organs or anus of an animal;
 - (b) the masturbation of one person by another person; or
 - (c) the insertion of any object resembling or representing the genital organs of a person or animal, into or beyond the mouth of another person, but does not include an act of sexual penetration.

22. SEXUAL VIOLENCE TASK TEAM (SVT) a multi-stakeholder team that is responsible for the discussion and review of the current policy for public comments before finalisation and approval.
23. STUDENT any registered UWC student as per the provision of the UWC Statute.
24. STUDENT INTEREST GROUPS student organisations that are affiliated to the SRC.
25. THUTHUZELA CENTRE a one-stop support centre that provides care and understanding to students who report a rape and request medico-legal-counselling interventions.

3. ACRONYMS

UWC	University of the Western Cape
CFS	The child protection, family violence and sexual offenses unit at the SAPS whose mandate is to investigate cases of rape and sexual assault affecting children, men and women and is dispatched to different SAPS stations across the country. Its members are trained to serve rape survivors.
CHC	Central Housing Committee
CSSS	Centre for Student Support Services
GEU	Gender Equity Unit
HRC	Human Resources Committee of Council
PEP	Post-exposure prophylaxis (PEP) is a short-term anti-retroviral (ARV) treatment that reduces the likelihood of HIV infection after exposure to HIV-infected blood or sexual contact with an HIV-positive person; For a higher likelihood of prevention success, PEP must be administered within 72hrs of a rape. For rape survivors, PEP can be obtained through medical facilities, the Thuthuzela Care Centre and SAPS CFS Unit.
RS	Residential Services
SAPS	South African Police Services
SDS	Student Development and Support
SDSSC	Student Development and Support Services Committee of Senate and Council
SRC	Students Representative Council

4. UWC'S COMMITMENT AND STATEMENT OF PRINCIPLES

- 4.1 The University recognizes the extent and the seriousness of sexual offences and particularly violence, as well as its effects upon the education system. The University acknowledges its responsibility to play a significant role in preventing sexual offences, supporting complainants/survivors, and holding perpetrators accountable. Therefore, the University is committed to providing and maintaining an environment in which sexual violence is totally unacceptable and is not tolerated.
- 4.2 The University recognizes that anyone can experience sexual offences. An intersectional approach to sexual offences recognizes that individuals may encounter increased vulnerabilities based on their identity or perceived identity including such factors as race,

economic status, gender identity, gender expression, sexual orientation, language, age, ethnicity, culture, ability, faith and/or citizenship status. Complainants/survivors can also experience many barriers to disclosing, reporting, and/or seeking support; barriers can differ based on the lived experience of the complainant/survivor. Guided by the principles of substantive equality, the University strives to reduce these barriers.

- 4.3 The University recognizes that Sexual Offence is rooted in power imbalances and is underreported because of a range of reasons, which include stigmatization, fear of being labelled, the risk of further trauma and difficulties associated with investigating and imposing sanctions for Sexual Offence. The University commits to support survivors based on their personal experiences, whether or not a criminal offence has been proven, and whether or not the complainant/survivor chooses to make a report through University or external law enforcement processes.
- 4.4 The University recognizes its institutional responsibility to provide survivor focused support services to individuals affected by sexual offence regardless of where or when such incidents occur and will, to the extent possible, ensure complainants/survivors can self-determine the support and services they wish to access and whether they wish to contact police.
- 4.5 The University recognizes that confidentiality is key to create an environment and culture where complainants/survivors feel safe to disclose and seek support. The confidentiality of all persons involved in a report of sexual violence will be strictly observed.
- 4.6 The University is committed to providing on-going training, education, and awareness raising aimed at changing attitudes and behaviours that perpetuate sexual offences.
- 4.7 The University recognizes the extreme impact that rape culture has on society and will work collaboratively with its community to develop educational programs around this serious systemic issue.
- 4.8 Reports of sexual offences will be dealt with through the University complaints' procedures and any person who is found to have committed sexual offences shall be held accountable and subject to sanctions, discipline which may include expulsion and/or termination of employment, where appropriate.
- 4.9 All University staff in any way associated with the implementation of this policy are required to ensure timeliness of response to reduce the time required to access support services, as well as to ensure the timely resolution of complaints.
- 4.10 The University is committed to ensuring that its processes for addressing sexual offences are intended to promote fair, just and timely resolution for those filing complaints and for those against whom complaints are made. Both parties will be provided with information explaining the process.
- 4.11 The University is required to act in line with the prescripts of the policy and the criminal procedure requirements, where allegations of sexual violence or sexual offences have been referred to it.

5. POLICY SCOPE

This policy applies to students and staff (both academic and professional support staff¹), visitors, invited guests, contractors, service providers, ie. all members of the university community.

¹ Staff processes are defined in the "Policy on Sexual Harassment and Assault in the Workplace" which was approved at Council on 1 January 2014

The formulation of this policy is informed by international treaties, South African law and the policy frameworks which place an onus on universities to address sexual offences and take meaningful actions to address them. These comprehensive policy frameworks locate universities' responses to sexual offences at the nexus of criminal, civil and labour law. A list of policies and statutes are found in Addendum 1. The policy must also be read with the *Student Disciplinary Rules of the University of the Western Cape* as well as the *HR Policy on Sexual Harassment and Assault in the Workplace, 2014*

6. POLICY PURPOSE AND ITS APPLICABILITY

- 6.1 This policy affirms the University of the Western Cape's ongoing commitment to promote a conducive learning and living environment by intensifying efforts towards prevention of any acts of sexual offence and violence on any member of the campus community in line with the institution's zero tolerance approach. The University acknowledges that deeply held social attitudes contribute to the perpetuation of sexual offences and will address it through holistic coordinated interventions to minimise the extent and the impact of sexual offences on campus.
- 6.2 The policy outlines procedures for reporting, investigation and resolutions of complaints; specialised support and services available to those affected by sexual offences; the processes in place to address reports of sexual offences; education and information strategies to address and prevent sexual offences and affirms the University's commitment to procedural fairness.
- 6.3 The University is committed to the effective implementation of the policy and programmes through attention to budgeting; monitoring and evaluation; and the creation of a system of accountability.
- 6.4 The policy furthermore seeks to align the university's response through coordination amongst stakeholder roles and services so that it speaks to the needs of the survivor/complainant and is cognisant of the rights of all affected when a report has been received.

7. GOVERNANCE

- 7.1 The Student Development and Support Services Committee (SDSSC) is the Committee of Senate and Council responsible for playing an oversight role, monitoring and providing advice on policy development and implementation as well as on interventions to promote a safe and intellectually stimulating, holistic learning environment that encourages student engagement and satisfaction, personal development and academic success.
- 7.2 SDSSC Standing Orders provide for various subcommittees that support its work; these subcommittees are classified according to strategic clusters. Specific to this policy is the Cluster on Security, Promotion of Diversity and Human Rights.
- 7.3 Council and all sub-committees of Council dealing with staff matters has oversight over the *HR Policy on Sexual Harassment and Assault in the Workplace, 2014* which should be read in conjunction with this policy and is specifically informed by Labour Act imperatives for employees

8. PROCEDURES, PROCESSES AND SUPPORT

The following procedures will apply when dealing with sexual violations affecting UWC students. These procedures must ensure the appropriate resolution of problems in an appropriately efficient, sensitive, confidential, manner.

8.1 REPORTING

8.1.1 The reporting of sexual offences is essential for accurate record keeping and in the university's efforts to monitor and evaluate whether strategies, interventions, and process are having any positive impact in terms of preventing the occurrence of sexual offences being committed on our campus. The institution has trained staff working in the professional support services units who understand and embrace the need for confidentiality around these matters; it therefore limits access to information as per the provisions of the best practices outlined in relevant policy frameworks and organisations such as Rape Crisis.

8.1.2 Information will only be shared among first responders to the extent necessary to carry out responsibilities under this Policy or as required to provide a fair process during the investigation and decision-making process. The intention of this Policy is for the Reporting process and each of its steps to be completed as expeditiously as practicable.

8.1.3 Any member of the UWC community (where "any" includes those participating in UWC business and practices on or off campus, including for instance those who commute on excursions, research, experiential learning, outreach and clinical placement sites, and experience any form of sexual offences en route to, while working at or returning from the site) may report a case of sexual offence at any of the following first responder offices:

- i. The Gender Equity Office
- ii. Campus Protection Services (CPS)
- iii. The Office of the Proctor [where the alleged perpetrator is a student]
- iv. Human Resources: Employee Relations Department
- v. The Residential Services ResLife Office
- vi. The Centre for Student Support Services

8.1.4 It is important to note that those who report acts of sexual offence at off campus sites shall enjoy the support of specific staff at the university to facilitate processes with relevant statutory bodies such as SAPS. Sexual offences are criminal offences and as such, are pursued and investigated by SAPS and other relevant state organs while the University provides support to the complainant/survivor, at the choice of the complainant/survivor, while the matter is on-going. Support may take the form of:

- Assistance with obtaining medical care,
- Counselling support,
- Guidance and assistance with reporting the matter to SAPS, at the election of the complainant/survivor in criminal procedures through the Proctor's office,
- Assistance with obtaining Protection Orders, where applicable,
- Confidential relevant arrangements with the specific UWC faculty, department or unit where the complainant is located.

8.1.5 The survivor's right to privacy, and safety and well-being is of utmost importance to the institution in these matters.

8.1.6 Incidents of sexual offence may be brought to the attention of the institution by the complainant/survivor or any other person that is aware of the offence, for example a friend, fellow student or faculty official acting on the explicit request of the complainant/survivor where the complainant/survivor has indicated that s/he wishes that the institution be made aware of the violation. The complainant/survivor or those who report on a complainant's behalf must be informed of the complainant's right to lay charges with the South African Police Services and about how to access necessary medical resources through the Thuthuzela Care Centre or similar Centre should the complainant/survivor not wish to speak to the institution her/himself.

8.1.7 The policy recognises the right and ability of all complainants/survivors to make choices for themselves in respect of pressing formal charges or not. What it encourages is that complainants/survivors are made aware of life-saving medical information that needs to happen within 72 hours of a rape or severe sexual assault. This can be done via the Thuthuzela Care Centre or a similar Centre without any pressure to lay charges.

8.2 PROCESSES

The university may employ formal or informal processes when addressing matters pertaining to sexual violence.

8.2.1 INFORMAL PROCESSES

8.2.1.1 It is important to note that there are varying degrees of sexual offences and some complainants choose to resolve matters differently. Some may choose a mediation between themselves and the perpetrator. Where this is opted for, the process of mediation will be facilitated by a trained staff member and will only take place once there is a written consent to the process by the complainant and the outcome entails a formal warning and recognition of the process by both parties. The path that the informal process follows then largely depends on the wish of the complainant to address the matter informally and on the perpetrator's willingness to comply.

8.2.1.2 Sexual harassment charges follow different pathways depending on what the perpetrator's relationship to the university is, for instance in a case where the alleged perpetrator is a student, the matter will be dealt with internally through the student discipline process with support put in place for all parties. Where the alleged perpetrator has no relationship with the university/is not a member of the university community, due attention would be on the survivor regards reporting, access to medical care and counselling services. If the alleged perpetrator is a staff member, the matter will be dealt with via the Human Resources Department; this policy must therefore be read alongside the *HR Sexual Harassment and Sexual Assault Policy* of 2014.

8.2.2 FORMAL PROCESSES

8.2.2.1 Sexual offences are a serious violation of Human Rights. Sexual offences and in particular rape will follow an immediate formal process when reported. The University through CPS must alert SAPS and through the other first respondent offices liaise with relevant caregivers such as the Rape Crisis' Thuthuzela Care Centre or similar centres. The Thuthuzela Centre's integrated approach to rape care is one of respect,

comfort, restoring dignity and ensuring justice for children, women and men who are victims of sexual offences. The Centre is staffed by trained professionals who confidentially provide all the services needed by someone who has just been raped. The Centre provides care and understanding to the individual and requests medico-legal-counselling interventions.

8.2.2.2 The table below outlines processes for Sexual Offences, including but not limited to Rape, Sexual Assault and Sexual Harassment.

RAPE/SEXUAL ASSAULT	SEXUAL HARASSMENT / STALKING AND RELATED OFFENCES
<p>1. During Office Hours:</p> <p>1.1 Complaint is received at any of the first responder points outlined above</p> <p>1.2 Critical information is shared with the complainant regards:</p> <ul style="list-style-type: none"> ▪ Medical information (Post-Exposure Prophylaxis, HIV testing for the complainant and Perpetrator) ▪ Legal Information ▪ Preservation and Gathering of Evidence ▪ Role and Integrity of the Ambulance Services at the UWC <p>1.3 Assess complainants' immediate safety and put protective measures in place where appropriate.(this may include convening a Vice-Rector's tribunal where the alleged perpetrator resides on campus)</p> <p>1.4 Irrespective of whether the complainant wants to lay charges, the complainant will be referred to the Thuthuzela Care Centre which will facilitate any other services required by the complainant</p> <p>1.5 The university and its support services are available to offer any additional support should the complainant require it. The following contacts apply here (every UWC identity card also has a list of emergency numbers) :</p> <ul style="list-style-type: none"> - Campus Protection Services, 021 959 2100 - The Gender Equity Unit, 021 959 2813 - Centre for Student Support Services, 021 959 2299/ After hour toll free 0800 222 333 - Residences, 021 959 3556/7 - Rape Crisis, 021 447 9762 <p>2. After Hours/Weekends and Public Holidays:</p> <p>2.1 Complaint is logged at CPS or via any of the UWC crisis/helplines</p> <p>2.2 Critical information is shared with the complainant regards:</p>	<p>3. Student Discipline Process (SDP):</p> <p>3.1 Complaint is received at any of the first responder points outlined above</p> <p>3.2 Complainant advised around Student Discipline Process and referred to the Proctor's Office</p> <p>3.3 Assess complainants' immediate safety and put protective measures in place where appropriate</p> <p>3.4 The Proctor's Office will then conduct further investigation and hold responsibility for the resolution of the process.</p> <p>3.5 The Proctor's Process may involve Court proceedings or a mediation – this is dependent on the nature of the harassment and the wishes of the complainant.</p> <p>4. Human Resources – Employment Relations Process:</p> <p>4.1 Complaint is received at any of the first responder points outlined above</p> <p>4.2 In terms of the UWC process a complainant of sexual harassment must immediately seek advice and assistance from the Employee Relations (ER) Office in the Human Resources department.</p> <p>GENERAL</p> <p>The following process applies to investigations around sexual offences and related:</p> <ol style="list-style-type: none"> 1. The investigation will assemble all evidence necessary for the case. The amount of time that it will take to complete the investigation will depend on the particular circumstances. 2. If multiple individuals were harassed, then it might take longer to interview the parties and the witnesses.

- Medical information (Post-Exposure Prophylaxis, HIV testing for the complainant and Perpetrator)
- Legal Information
- Preservation and Gathering of Evidence
- Role and Integrity of the Ambulance Services at the UWC

2.3 Assess complainants' immediate safety and put protective measures in place where appropriate

2.4 Irrespective of whether the complainant wants to lay charges, the complainant will be referred to the Thuthuzela Care Centre which will facilitate any other services required by the complainant

2.5 The university and its support services are available to offer any additional support should the complainant require it. The following contacts apply here (every UWC identity card also has a list of emergency numbers) :

- Campus Protection Services, 021 959 2100
- The Gender Equity Unit, 021 959 2813
- Centre for Student Support Services, 021 959 2299/ After hour toll free 0800 222 333
- Residences, 021 959 3556/7
- Rape Crisis, 021 447 9762

Where the alleged perpetrator is a student, the complainant should be informed of the option to lodge a complaint with the Proctor's office, in which event the process set out in 3 below and the Student Discipline Rules will apply.

Where the alleged perpetrator is an employee of the University, the Complainant should be informed of the option to lodge the complaint with the Human Resources Department: Employment Relations office of the University, in which event the process as set out in 4, guided by the University Rules and applicable & policies will apply.

3. The complainant will be requested to complete a pre-investigation form detailing the events.
4. The investigation will start within 48 hours of receiving the complaint.
5. The complainant will be informed of both the informal and formal procedures available internally to the UWC to deal with the complaint.
6. The complainant will be reassured that s/he will not face any prejudicial action/s or secondary as a result of the complaint or any adverse consequences if s/he chooses to follow either the formal or informal procedure.
7. Safeguards will be put in place to guard against retaliations against the complainant(s) and the perpetrator(s) will be subjected to a disciplinary action should such retaliation be reported.

8.3 SUPPORT

8.3.1 The Campus Protection Services Unit, the Gender Equity Office, the Centre for Student Support Services, and the Department of Residential Services through the ResLife Office, all have staff who are equipped to provide support and advice, specifically to students, when attempts or acts of sexual violence or sexual offences have taken place.

8.3.2 Support to the complainants/survivors will include access to:

- Advice and assistance;
- Supportive measures, including crisis counselling; assistance with access to SAPS where requested; assistance in access to emergency medical care; and, if relevant, legal advice and other services;
- Protective measures to mitigate the impact of the attack or the reporting thereof upon the complainant. These may include change of student residence, where requested; change of academic classes and academic relief, where appropriate; and/or special leave (staff) or leave of absence (students), where appropriate.
- Measures to protect the complainant from the alleged perpetrator when not arrested or on bail including removal of the alleged perpetrator from campus, letter of restraint, or (depending on the circumstances) protection orders in terms of the Domestic Violence Act or Protection from Harassment Act or other civil procedures.

8.3.4 In a case where the complainant has sustained severe injuries due to sexual violence and the complainant is rendered unconscious or incapacitated, the decision to contact next of kin lies within the discretion of the attending medical practitioner.

8.4 LEVELS OF INTERVENTIONS

While the university responds along a Continuum of Care (as tabled below), it recognises the need to implement strong, effective preventative strategies that promote the safety and well-being of all university students and staff and other stakeholders that enter the university environment. This includes but is not limited to comprehensive training to all stakeholders, awareness programmes, empowerment programmes, and by-stander empowerment.

8.4.1 CONTINUUM OF CARE

PREVENTION (to prevent sexual violence from occurring)	EARLY INTERVENTIONS (after the offence/violation has occurred)	STATUTORY INTERVENTION (formal and informal)	AFTER/CONTINUED CARE SERVICES, INTERVENTIONS
<ul style="list-style-type: none"> ▪ Communication of policy (website, booklets) ▪ Awareness (student structures, faculties, residences, employee forums) ▪ Education & training (dialogue sessions, poster campaigns, training for crisis response, programmes focused on victim/survivor) 	<ul style="list-style-type: none"> ▪ Support services ▪ Helpline services ▪ Crisis response protocol ▪ Victim/survivor and offender programme 	<ul style="list-style-type: none"> ▪ Formal procedures and mediation interventions ▪ Assistance and advice related to procedures ▪ Investigation and disciplinary action ▪ Disciplinary sanctions & the promotion of safety 	<ul style="list-style-type: none"> ▪ Support services ▪ Protection Orders ▪ Counselling services

8.5 DISCLOSURE

- 8.5.1 The University recognizes that an individual who has experienced some form of Sexual Offence may wish for a quiet period to process and reflect before making the decision to or not to make a Disclosure or a Report of the incident.
- 8.5.2 Notwithstanding these considerations, complainants/survivors of Sexual Offences are encouraged to make a Disclosure and/or Report as soon as they are able to do so.
- 8.5.3 A Disclosure can be made in confidence to any Member of the University Community. A Member of the University Community who receives a Disclosure is encouraged to inform the Complainant about this Policy and to direct them to the GEU, the CPS or any of the qualifying first responder offices.
- 8.5.4 On a national level, it is important to note that privacy of information is protected by the *Protection of Personal Information Act* (POPI Act) and as such, the institution is not allowed to release any details of the alleged perpetrator, the complainant/survivor or details about the case to the broader campus community, any social media platform, other persons, or media organisations. However, when the University is made aware of a Sexual Offence incident or incidents that pose a risk to the health, security and safety of Members of the University Community, the University will provide generic communication that affirms its commitment to address the threat to their safety.
- 8.5.5 It is important to note that where a Complainant chooses not to proceed with the investigation or instructs the University not to act on their Disclosure or Report anymore, the Complainant has a right to choose not to participate in such an investigation anymore but is still entitled to receive the University support and professional services outlined in this Policy.
- 8.5.6 In instances where an allegation of a Sexual Offence is reported or disclosed anonymously, the University has to look into a number of factors, including the information available to substantiate the allegation and to permit a fair process.

8.5.7 RIGHTS OF THE SURVIVOR/COMPLAINANT

The survivor has the right to choose to lay charges or not, to request confidentiality, and to obtain representation, medical-legal advice and to access appropriate support interventions including being removed from a campus location where they do not feel safe.

8.5.8 RIGHTS OF THE ALLEGED PERPETRATOR

The alleged perpetrator has the right to legal representation and appropriate support, including being removed from campus for their own safety.

The University will take reasonable steps to protect Complainants, alleged perpetrators and others who participate in a University process addressing the allegations of Sexual offences from any threats or form of retaliation. Threats of or acts of retaliation against the Complainant directly or at the instance of the alleged perpetrator will be treated as continued Sexual offence, including Gender Based Violence offences.

9. REVIEW

The University acknowledges that addressing Sexual Offences on campus is an evolving process, therefore the University will periodically revisit this Policy, its procedures and associated support services. It will review it at the appropriate time, amend and conduct relevant consultations with Members of the University Community.

ADDENDA

ADDENDUM 1 POLICY FRAMEWORKS ALIGNMENT

Relevant Statutes and Compliance Frameworks that were consulted and studies towards the development of the Sexual Violence Policy

- Amended Code of Good Practice on the Handling of Sexual Harassment cases in the Workplace
- Beijing Declaration and Platform for Action (1995).
- Code of Good Practice on the Handling of Sexual Harassment cases, Notice 1367 of 1998, Labour Relations Act 66 of 1995.
- Constitution of the Republic of South Africa, 1996
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)(1979)
- Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007
- Employment Equity Act 55 of 1998.
- Higher Education Act No. 101 of 1997
- National Health Act No. 61 of 2003
- Notice 1357 of 2005, Employment Equity Act, 1998 (Act 55 of 1998)
- Sexual Offences Act 32 of 2007
- South African Schools Act No. 84 of 1996
- The Domestic Violence Act, 116 of 1998
- The Employment Equity Act, 55 of 1998
- The Policy Framework for the Realisation of Social Inclusion in the Post-School Education and Training System, 2016
- The Prevention of Family Violence Act (Republic of South Africa, Act No.133 of 1993
- The Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000
- The Protection from Harassment Act, 17 of 2011
- The Protection from Harassment Act, 2010 (No.17 of 2011), and the Regulations (No 26357), 12 April 2013
- The White Paper for Post-School Education and Training, 2013
- UWC Mission Statement and Core Values
- UWC Student Disciplinary Rules

ADDENDUM 2

RAPE SURVIVOR INFORMATION PACK including:

- What is involved in the examination and the process
- Health risks after sexual assault and the need for testing and treatment
- HIV, pregnancy and STI risks
- Treatment regimens and their side effects
- The psychological impact of sexual assault and coping strategies
- The rights of the survivor/complainant regarding reporting to the police and giving evidence in court
- Further support after sexual assault either in the community or through a telephone help-line or actual point of support

ADDENDUM 3

RAPE SURVIVOR INFORMATION POSTER

ADDENDUM 4

DEPARTMENTAL ROLES AND RESPONSIBILITIES

- Process Posters

ADDENDUM 5

Counseling Helpline Referral Sites and Contacts Poster

Additional References

What consent looks like (<https://www.rainn.org/articles/what-is-consent>)
Types of Sexual Violence (<https://www.rainn.org/types-sexual-violence>)...

WHO World Report on Violence and Health, 2017
(http://www.who.int/violence_injury_prevention/violence/global_campaign/en/chap6.pdf)

What is Gender Based Violence? (www.adapt.org.za/adapt%20on%20gbv.pdf)

Rape Culture - Women's Center - Marshall University
(www.marshall.edu/wcenter/sexual-assault/rape-culture)

10 – Point Action Plan: An initial Response from Australia’s Universities to the National Student Survey on Sexual Assault and Sexual Harassment. August 2017,
(universitiesaustralia.edu.au/respectnowalways)