Gender-Based Violence Prevention and Response Policy - Schedule 1 - Explanations and Examples

Section 1 - Purpose

(1) This Schedule supports the understanding and operationalisation of the Gender-based Violence Prevention and Response Policy and Gender-based Violence Response Procedures.

Section 2 - Authority

(2) Authority for this document is established by the Gender-Based Violence Prevention and Response Policy.

Section 3 - Schedule

What is Gender-Based Violence?

(3) The Gender-based Violence Prevention and Response Policy adopts the National Code definition of gender-based violence (see Section 8 of the Policy). Gender-based violence results in, or is likely to result in, harm, coercion, control, fear or deprivation of liberty or autonomy. Harm and violence can be physical, sexual, emotional, psychological, social, cultural, spiritual, financial, and technology-facilitated harm (including image-based abuse).

(4) Gender-based violence is harm that is underpinned by gender inequality, rigid gender norms, and gender-based discrimination. It can be based on a person's actual or perceived sex, gender, sexual orientation, gender identity or expression, or sex characteristics, or on the fact that they do not conform to gender stereotypes.

(5) Gender-based violence disproportionately impacts women, First Nations people, culturally and racially marginalised communities, people with disability, and people of diverse sexual orientation and gender identity. This includes trans and gender diverse people and people with innate variations of sex characteristics (intersex people). All gender-based violence, regardless of who uses it and who experiences it, is unacceptable.

(6) Some forms of gender-based violence also constitute a criminal offence. RMIT cannot make findings of criminal responsibility under criminal law, as this is a matter for police to investigate. However, RMIT is responsible for determining whether alleged conduct has breached any relevant RMIT policies and procedures. The choice to report to police generally rests with the person who has experienced the violence, and Safer Community can support them to do so. RMIT will only notify police without the person's agreement where it is required by law (for example, to protect a child or young person under 18) or where there is a serious and imminent risk to the safety of the person or others in the RMIT community. If this happens, Safer Community will let the person know. See the Gender-based Violence Response Procedures for more information.

What is an Intersectional Approach?

(7) An intersectional approach recognises that a person's experience of gender-based violence can be shaped by other

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forms of discrimination and marginalisation they experience as because of other aspects of their identity, such as sex, gender identity, gender expression, sex characteristics, sexual orientation, disability, being First Nations, race, culture, language, visa status or socio-economic background. When these forms of discrimination and inequality intersect, this can increase the risk and impact of gender-based violence, and create additional barriers to safety, disclosure, reporting, and support.

(8) An intersectional approach to supporting those impacted by gender-based violence recognises:

a. the cultural determinants of health, wellbeing and safety, the protective role of cultural connection for Aboriginal and Torres Strait Islander peoples, and cultural strengthening and self-determination as the foundation for preventing and responding to gender-based violence.
b. the value, rights, and contributions of people with disability, and the importance of challenging stereotypes, promoting respect and equality, and supporting person-centred approaches.
c. that the violence experienced by people of diverse sexual orientation and gender identity is driven by rigid and hierarchical ideas about sex, gender, gender expression, and sexuality, and is further influenced by intersecting forms of inequality and discrimination, including racism, classism, ableism, and ageism. It includes violence directed at people because they are trans or gender diverse, because of their sexual orientation or sex characteristics, or because they do not conform to gender stereotypes. Examples can include misgendering or deadnaming, threatening to out someone, or exclusion from appropriate facilities.
d. the strength, resilience and rights of older people, and the intersecting impacts of ageism and gender inequality on their safety and dignity.
e. the strength and resilience of culturally and racially marginalised communities, and the intersecting impacts of gender inequality, racism and structural discrimination on their safety and dignity.

What is Consent?

(9) Consent means free agreement, given voluntarily and on an informed and ongoing basis. Circumstances in which a person does not consent to an act include, but are not limited to, the following:

a. the person submits to the act because of force or the fear of force, whether to that person or someone else
b. the person submits to the act because of the fear of harm or violence of any type, whether to that person or someone else or an animal
c. the person submits to the act because of threats or fear of any potential consequence if they do not (such as having their sexual orientation, gender identity or intersex status disclosed to others, or losing their job or visa)
d. the person submits to the act because the person is unlawfully detained
e. the person is asleep or unconscious
f. the person is so affected by alcohol or another drug as to be incapable of consenting to the act (noting this circumstance may apply where a person previously gave informed consent, but subsequently became so affected by alcohol or another drug as to be incapable of continuing to consent)
g. the person is incapable of understanding the sexual nature of the act
h. the person has been misled or deceived about the sexual nature of the act
i. the person has been misled or deceived about the identity of any other person involved in the act
j. the person has been misled or deceived into believing the act is for medical or hygienic purposes
k. if the act involves an animal, the person has been misled or deceived into believing the act is for veterinary or agricultural purposes or scientific research purposes
l. the person does not say or do anything to communicate that they are consenting to the act occurring
m. having initially consented to the act, the person later withdraws consent to the act taking place or continuing (or, as outlined above, later becomes so affected by alcohol or another drug as to be incapable of continuing to consent).

(10) Clear and unambiguous agreement must be expressed outwardly through mutually understandable words or actions. Consent must be voluntarily given.

(11) Consent to engage in one sexual activity or past agreement to engage in a particular sexual activity cannot be presumed to constitute consent to engage in a different sexual activity or to repeat a sexual activity. Just because person (B) consented to something previously with person (A), or even with another person, it does not mean that person (B) always consents to that activity.

(12) It is not enough to presume that consent is given, because the person did not protest or physically resist to the act, or experience a physical injury.

(13) It is important to understand that:

a. a person can consent to an act only if the person is capable of consenting and free to choose whether or not to engage in or allow the act
b. where a person has given consent to an act, the person may withdraw that consent either before the act takes place or at any time while the act is taking place.

What is Sexual Harassment?

(14) Sexual harassment is when a person:

a. makes an unwelcome sexual advance, or an unwelcome request for sexual favours, or
b. engages in other unwelcome conduct of a sexual nature in relation to a person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated, or intimidated.

(15) The circumstances to be considered include, but are not limited to, the following:

a. the sex, age, sexual orientation, gender identity, intersex status, marital or relationship status, religious belief, race, colour, or national or ethnic origin, of the person harassed
b. the relationship between the person harassed and the person who made the advance or request or who engaged in the conduct
c. any disability of the person harassed
d. any other relevant circumstance.

(16) ‘Conduct of a sexual nature’ includes making a statement or a physical gesture of a sexual nature to a person or in the presence of a person. It also includes a statement or gesture made about a person when they are not present, if it is likely that they will become aware of it. Conduct of a sexual nature can be physical, verbal or written, including online.

(17) Sexual harassment can take various forms. It can be subtle and implicit, rather than explicit. Sexual harassment can include:

a. unwelcome touching, hugging, fondling, or kissing
b. sexually suggestive behaviour such as staring or leering
c. sexually suggestive comments or “jokes”
d. displaying or showing sexually explicit or offensive objects or images (such as screen savers or desktop backgrounds)
e. unwanted invitations to go out on dates or requests for sex
f. intrusive questions or comments about a person's private life or the way they look

g. inappropriate questions or comments about a trans or gender diverse person's body, surgeries, or genitals
h. unnecessary familiarity, such as deliberately brushing up against a person
i. insults or taunts based on sex
j. sexually explicit physical contact
k. sexually explicit emails or text messages
l. accessing sexually explicit internet sites
m. inappropriate advances on social networking sites or other messaging platforms
n. behaviours that could constitute stalking
o. behaviours that could constitute sexual assault.

(18) Sexual harassment does not need to be repeated or continuous; it can be a one-off incident.

(19) The intention of the person engaging in the harassment is irrelevant. A person might say they “were only joking,” but jokes can be insulting, threatening, humiliating or unwelcome, and can be sexual harassment.

(20) RMIT acknowledges the significant harm or distress that can occur when threats to distribute intimate images are made, and where such images are distributed (e.g. sexting or image-based abuse, including in the context of relationship breakdown). An intimate image is one that depicts: a person engaged in sexual activity, a person in a manner or context that is sexual, or the genital or anal region of a person, or in the case of a female or a person who identifies as female, the breasts.

(21) As such, RMIT’s definition of sexual harassment includes the situation where:

a. person (A) intentionally distributes an intimate image of another person (B) to a person other than (B) (including via social media), and
b. the distribution of the image is contrary to community standards of acceptable conduct, except where person (B) is an adult and has expressly consented to the distribution of the intimate image and how it was distributed.

(22) Continuing to distribute an intimate image after person (B) has withdrawn their consent is also sexual harassment.

(23) Sexual harassment also occurs where a person threatens to send an intimate image of another person. It is also a form of gender-based violence to share private images of a trans or gender diverse person taken before their gender affirmation, without their permission.

What is Sexual Assault?

(24) RMIT defines sexual assault as conduct where:

a. a person (A) intentionally touches another person (B) and the touching is sexual
b. person (B) who was touched did not agree or consent to the touching, and
c. person (A) did not reasonably believe that person (B) consented.

(25) If person (A) knew that person (B) was not consenting, this will be sexual assault; and if person (A) did not believe on reasonable grounds that person (B) was consenting, this will also be sexual assault.

(26) For the purposes of this policy, RMIT also includes the following acts defined in the Crimes Act 1958 (Vic): (i) rape, (ii) rape by compelling sexual penetration, (iii) sexual assault by compelling sexual touching, (iv) assault (being the non-consensual application of force) with intent to commit a sexual act, and (v) threat to commit a sexual assault or rape.

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(27) RMIT cannot make findings of criminal responsibility, including whether a person has engaged in sexual assault under criminal law. However, RMIT can and will determine whether alleged conduct breaches RMIT's policies and procedures.

(28) Sexual assault occurs when a person is forced, compelled, coerced or tricked into sexual acts against their will or without their consent, including when they have withdrawn consent. This includes rape, sexual penetration, and/or sexual touching. It also includes intentionally removing or damaging a condom during sex without the other person's consent or knowledge (sometimes called 'stealthing').

(29) Touching could be with any part of the body or with anything else, and may be sexual due to:

a. the area of the body that is touched or used in the touching, including (but not limited to) the genital or anal region, the buttocks or, in the case of a female or a person who identifies as a female, the breasts, or
b. the fact that the person doing the touching seeks or gets sexual arousal or sexual gratification from the touching, or
c. any other aspect of the touching, including the circumstances in which it is done.

(30) The following are examples of sexual assault:

a. Two people in a relationship, person (A) and person (B), start engaging in sexual activity, but person (B) changes their mind and says they want to stop. Person (A) refuses to stop and continues the sexual activity.
b. Person (A), a student, takes advantage of person (B), another student who is intoxicated at a party, by encouraging person (B) back to person (A)'s room and engaging in sexual activity when person (B) is unable to consent because they are affected by alcohol.
c. Person (A), a research supervisor, manipulates person (B), a student, into engaging in sexual acts as a way for person (B) to receive a higher grade for their assessments.
d. Person (A), a staff member who has been making unwelcome advances towards person (B), another staff member, forces themselves onto person (B) while they are alone in a meeting room, attempting to kiss and touch them.

What is Online or Technology-facilitated Gender-based Violence?

(31) Technology-facilitated gender-based violence is any harmful act that is committed, assisted, aggravated, or amplified by the use of digital tools or information communication technologies. These acts can result in or have the potential to cause physical, sexual, psychological, social, political, or economic harm, as well as infringe on rights and freedoms. This abuse can occur in online spaces, and it can be perpetrated offline through the use of technological means, such as controlling a person’s whereabouts by using a GPS tracker.

(32) Technology-facilitated gender-based violence not only intensifies existing forms and patterns of violence, such as intimate partner violence, but also introduces new forms of violence such as online stalking and image-based abuse through deepfake videos created with artificial intelligence.

(33) While anyone who is online or who uses digital tools may face violence online, some groups are at greater risk for example, people who are very visible online, such as women in public life, journalists, human rights defenders, politicians, young women and girls and feminist activists.

(34) Technology-facilitated gender-based violence can include the following:

a. Coercive control: pattern of abusive behaviour used to control someone within a relationship through manipulation, pressure, and fear.
b. Cyberbullying: sending intimidating or threatening messages.

c. Non-consensual sexting: sending explicit messages or photos without the recipient’s consent.
d. Doxing: publicly releasing private or identifying information about a person without their consent, including their sexual orientation, gender identity, or sex characteristics.
e. Deepfakes: videos, images, or audio in which a person's face, body or voice has been digitally altered so that they appear to be someone else or to be doing something they did not do, typically used maliciously or to spread false information.

Status and Details

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Policy Owner	Mish Eastman Interim Chief Operating Officer & Vice-President
Policy Author	Shah Abdul-Rahman Executive Director, Health, Safety and Risk
Enquiries Contact	Prevention and Respect Team

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