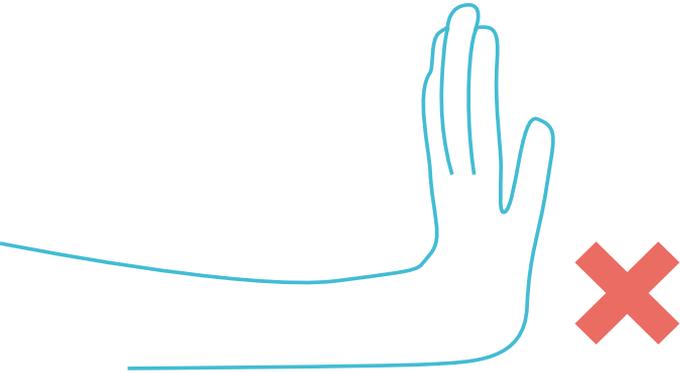


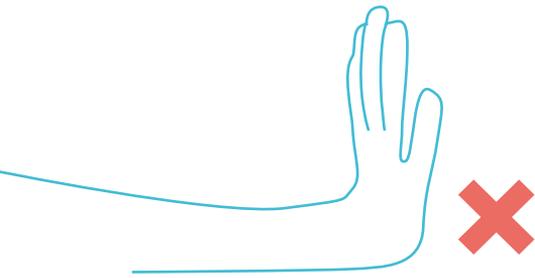


UNIVERSITY  
OF WARSAW



**GUIDE TO  
THE PREVENTION  
OF SEXUAL  
HARASSMENT  
AT UNIVERSITY OF WARSAW**

**RÓWNO  
WAŻNI**



# GUIDE TO THE PREVENTION OF SEXUAL HARASSMENT AT UNIVERSITY OF WARSAW

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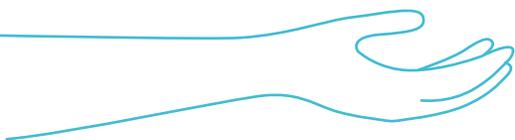
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WARSAW, 2021



# RESPECT

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## INTRODUCTION

### THE VALUES OF UNIVERSITY OF WARSAW

Treating people with mutual respect is a fundamental principle of the University of Warsaw community. Every person should feel safe studying and working on our campus. Sexual harassment is against the law, because it is a form of discrimination on the grounds of gender. It is also against the values of University of Warsaw.

Sexual harassment leads to inequality, perpetuates and strengthens damaging stereotypes and brings about the sexualisation of places of work and study. It often results in mental health problems or psychosomatic issues. It brings with it lots of negative outcomes, such as damage to self-respect, reduced powers of concentration or a drop in the motivation to work or study, and making the campus no longer feel a safe space.

**There is no justification for sexual harassment.** The perpetrator is guilty and the person who experiences sexual harassment has the right to defend himself or herself and to expect active support from all members of the university community and the university authorities. Unfortunately, situations do occur in which members of the university community experience sexual harassment. With this in view, University of Warsaw publishes a *Guide on the Prevention of Sexual Harassment* in connection with the *Anti-Discrimination Procedures*.

The work undertaken in this area is important from the point of view of abiding by the values of the university and maintaining a sense of justice alongside the necessity of guaranteeing good and safe conditions for work and study. It is also important from the perspective of legal requirements such as the Labour Code and the Anti-Discrimination Act and the recommendations of the Commissioner for Human Rights.

Sexual harassment is punishable on the grounds of the Constitution, the Labour Code, the Penal Code and the Anti-Discrimination Act.

The legal basis for the prevention of sexual harassment at UW is the UW Statute – paragraph §3, points 4 and 5:

*4. The fundamental principle of equal treatment applies to all members of the University community and constitutes the foundation of its activities. The University promotes diversity and actively combats discrimination.*

*5. The University implements the highest ethical standards, upholds research integrity, and is guided by the principles of the European Charter for Researchers.*

This Guide and the Procedure are addressed to all people working and studying at UW, and also to those invited to campus and those working in collaboration with the university.

## THE DEFINITION OF SEXUAL HARASSMENT AND THE KEY ISSUES

Sexual harassment is a form of discrimination on the grounds of gender.

**Sexual harassment is understood to refer to** any undesirable behaviour of a sexual character directed at a physical person or made with reference to gender, the goal of which is to undermine the dignity of the person in question, in particular through the creation of an intimidating, aggressive, demeaning, humiliating or offensive atmosphere; this behaviour may comprise physical, verbal or non-verbal elements. There is a full legal definition in the Appendix.

In order for specific behaviour to be considered as sexual harassment, alongside the elements already considered, it must be unacceptable to the person on the receiving end. Disapproval or an objection can be expressed directly to the person committing harassment, or indirectly, by raising the matter with one's superiors, the Student Council, the Academic Ombudsman or the Anti-Discrimination Co-Ordinator.

The act of undermining someone's dignity in the definition cited above can refer to behaviour manifested in gestures, words or statements that are insulting, bullying or in any way harassing with respect to a given person. Often sexual harassment takes the form of an abuse of power, either individual or institutional (resulting from the holding of a particular position), directed at the harassed person.

Anyone can be the subject of sexual harassment – irrespective of gender, age, educational achievements or one's position within the structures of the university. It can take the form of various types of behaviour, from inappropriate jokes with sexual connotations, innuendos, touching, indecent comments, emotional blackmail, etc.



## EXAMPLES OF SEXUAL HARASSMENT

- inappropriate jokes with sexual connotations made, for instance, during a lecture – even when presented with the intention of ‘creating a relaxed atmosphere’;
- unwelcome comments of a sexual nature – relating to, among other things, someone’s body, appearance, private life or sexuality;
- double entendres, sexual innuendos, ambiguous comments or gestures of a sexual nature;
- intrusive behaviour, pestering, persistent requests for a private meeting in spite of an earlier refusal;
- persistent staring and ogling;
- the sending of unsolicited messages, emails, text messages with inappropriate, sexual content;
- whistling, making suggestive noises or other kinds of taunting;
- the display of sexist, erotic or pornographic material in any form (for example, screensavers, calendars, photos, posters);
- undesired physical contact, undesired touching, rubbing, grabbing intimate parts of the body, pinching or patting;
- pulling part of someone’s clothing without being asked to;
- exposing one’s genitals to another person without their consent;
- undesired flirting or giving of gifts;
- undesired propositions with sexual undertones;
- forcing someone to make sexual contact;
- blackmail threatening to make public intimate material featuring the harassed person;
- spreading information of a humiliating nature with respect to someone’s personal or sexual life;
- exploiting difficult circumstances, feelings of loneliness or hopelessness, in order to establish intimate relations.

**What makes sexual harassment different from admissible forms of contact is the lack of clear and unambiguous consent given to the contact.**

## CONSENT AND LACK OF CONSENT

Sexual harassment takes place whenever there is a lack of clear consent on the part of the harassed person to specific behaviour or when opposition is expressed towards the person committing harassment.

**Consent indicates a clear expression** of the intention to make contact, in particular physical contact (including sexual contact) and emotional contact, with a specific person. The concept of consent has been formulated in response to the problem of sexual harassment and the overstepping of boundaries in various social settings.

Consent is mutual understanding that is verbal, physical or emotional. It cannot be obtained by misinformation, manipulation, threats or violence.

It is important to attend to the non-verbal signals of other people and to ask ourselves if our behaviour is acceptable to them.

### Consent is always:

- **clear** – expressed in a way that leaves no room for doubt as to the intentions or expectations on either side and the scope of acceptable behaviour;
- **specific** – consent is not given to everything, but only to well-defined intentions, expectations and behaviour;
- **voluntary** – it is given without pressure being exerted; pressure can take various forms, including those that may not be obvious and even visible to a third party, because it might arise from, for example, someone's social standing, a form of dependency or a particular relationship. The use of intoxicants creates a risk that an expression of consent is not voluntary, for this reason particular care must be taken to sure that consent really has been given voluntarily;
- **mutual** – both parties give consent together to engaging in specific actions;
- **provisional** – it is never given in such a way that it cannot be withdrawn, and it can be withdrawn at any time without fear of negative consequences.

**A lack of consent, in other words a protest** against behaviour that amounts to sexual harassment can be expressed in any way – either written or verbal, or by notifying a peer group that a given person has become the object of unwanted or unacceptable attention.

Sometimes the verbal expression of opposition can be difficult, particularly if the people in question are not on a level playing field (holding different positions within the institution, for example, or a student and a lecturer). Avoiding eye-contact, negative body language, disinterest or avoidance can be a non-verbal expression of protest.

This part of the Guide presents action that can be taken when sexual harassment occurs at University of Warsaw.

### Direct action that can be taken independently:

#### 1. Avoiding sexual harassment:

- Ensure that meetings and consultations take place with the door open.
- Familiarise yourself with the educational material provided by University of Warsaw: [www.rownowazni.uw.edu.pl](http://www.rownowazni.uw.edu.pl), 'The Anti-Discrimination Guide' and the online 'Understanding Equality Course'.
- Do not make statements that rest on stereotypes about gender and sexuality.
- Respect the boundaries and privacy of other people working and studying at University of Warsaw – don't pester, don't keep asking someone out, if you don't have their unambiguous consent.
- Sign up for equality training for people working in administration, people in research or teaching positions, or people studying at University of Warsaw.
- If you are organising events at University of Warsaw, such as conferences or debates, team-building excursions, research trips, summer camps for new students, or training courses, give the participants a copy of this Guide and make clear that they can alert the organisers if they encounter sexual harassment.
- In the workplace and places of study it is necessary to respect other people's personal space – do not stand too close to the person you are talking to.
- **If you are in doubt as to whether your behaviour is, or might be considered to be, sexual harassment**, think about the answers to the questions below. The goal of these questions is to raise awareness about the ways in which 'ordinary' behaviour – sometimes in a fundamental way – can have a negative impact on other people.
  - Have you stared at someone for a long time or eyed somebody up?
  - Have you commented on someone's body, physical appearance or attractiveness, when no comment has been requested?
  - Have you commented on the body, physical appearance or attractiveness of someone in your circle with explicit reference to sex or sexuality?
  - Have you commented on the body, physical appearance or attractiveness of another person in a general way?
  - Have you looked at someone's cleavage during a conversation?

- Have you touched someone without their clear consent?
- Have you 'stolen a kiss'?
- Have you taken a photograph of someone without their knowledge or clear consent?
- Have you shared pictures, clips or material about somebody without their permission?
- Have you asked unsolicited questions about someone's sex life?
- Have you reiterated a request for a date in spite of an earlier refusal?
- Have you said to someone that it's no surprise that a woman gets molested when she dresses like that?
- Have you offered someone a job in exchange for sex?
- Have you offered someone a job because you were attracted to them?
- Have you said that women who report sexual harassment are exaggerating?
- Have you passed comments about people at your workplace / place of study that were intentionally loaded with sexual undercurrents?
- Have you tried to arrange to meet someone who attends your classes?
- Have you tried to take advantage of your position in order to arrange to meet someone?
- Have you stood too close to somebody without a good reason?

**If the answer to one of the above questions is 'yes' – put an end to such behaviour and consult the Academic Ombudsman (Rzecznik Akademicki UW) or the University of Warsaw Equality Specialist (Główny specjalista ds. równouprawnienia). There is a risk that your behaviour constitutes sexual harassment.**

- In an instance where there are reports of sexual harassment or sexual violence within the institution, do not allow this information to circulate as an anecdote. Gossip and the passing of comments bring about further harm for individuals who have experienced sexual harassment or sexual assault. If you are in any doubt, contact the Academic Ombudsman or the UW Equality Specialist.
- If you are employed by the University of Warsaw or are working towards a doctorate and you take part in parties or trips organised by university students – ensure that you do not abuse your position of trust, do not take advantage of your position to bring about intimacy. It is even more significant than usual that students should feel safe in such situations. Some of these types of relationships are not acceptable at University of Warsaw, while others, if there is a relationship of dependency between the parties, are not advised (see the section 'Relationships and Sexual Harassment').

## 2. What can you do when you experienced sexual harassment or when you are a witness to it?

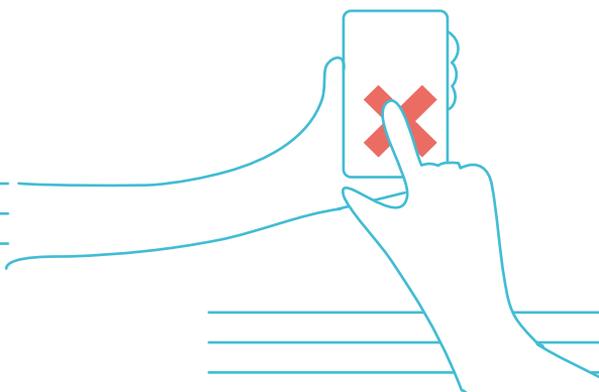
- **Talk** to someone you trust. Telling them about it will help you to get your thoughts in order, assess the seriousness of the situation and plan the next steps.
- **Make a record** – e.g., some notes on what has happened, with as much detail as possible about times and places, things people have said, descriptions of things that have taken place. Keep emails, text messages and photographs.
- You have the right **to make a protest directly** – try not to ignore sexual harassment if you experience or witness it. Give a clear signal to the people who carry out, or allow, this kind of behaviour:
  - State the situation
  - State the way you feel about it
  - Identify the consequences of this kind of behaviour
  - Declare the kind of change in behaviour that you expect  
E.g., 'I feel angry, when you make sexist jokes, because they really do harm women/men and make a negative impact on the atmosphere required for study. Please stop it.'
- **Contact the relevant people at UW for support in cases of sexual harassment** (→ see the next section). If you are a guest at UW, raise the matter with the person who invited you – the conference organisers, the person running the scholarship, the person co-ordinating classes.
- If you were a witness to sexual harassment or you have heard about such a situation – do not judge or place any kind of interpretation on the person who experiences sexual harassment. Do not ask questions, for example, about what the person was wearing, or what they said. These questions can lead to additional and greater stress. Instead, make use of this Guide to find out where you can get the best help at the University of Warsaw, and how the Anti-Discrimination Procedure works.



### 3. Offering Help

If you are approached by someone who has experienced sexual harassment:

- check if your department has an Equality Plenipotentiary (Pełnomocnik/Pełnomocniczka ds. równości) and get in touch with that person.
- if not, or if you do not want to discuss the matter with someone from your department – contact the Academic Ombudsman and seek advice.
- It is possible that it will be necessary to find solutions that can support the person who has experienced sexual harassment, such as rearranging class groups, or assistance in setting up a period of leave on medical grounds. Consult the Academic Ombudsman about the situation.



# ACT ION

## REPORTING SEXUAL HARASSMENT TO THE APPROPRIATE UNIVERSITY INSTITUTIONS

Action in cases of sexual harassment can take on two different forms:

### **1. 'Soft' approach – informal provision of support and remedies led by the Academic Ombudsman or by your faculty's Equality Plenipotentiary**

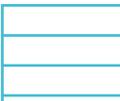
A report to the Academic Ombudsman or to a faculty's Equality Plenipotentiary will be treated confidentially, and all further interventions on the part of the Academic Ombudsman or the Equality Plenipotentiary will only be undertaken with the written agreement of the person who makes the report. It can also – with the agreement of the person raising the matter – be dealt with exclusively by the Academic Ombudsman.

When a 'soft' approach is applied, possible courses of action include:

- Direct support for the person experiencing discrimination.
- Information about the available psychological help, if necessary a referral to the Centre for Psychological Help.
- Contact with the appropriate administrative team or academic department and assistance in setting up institutional support, including, for example, changing class groups, rearranging an examination timetable, agreeing a period of leave for health reasons or as a result of special circumstances, etc.
- An educational intervention targeted at the perpetrator, for example, a discussion to improve their understanding of the situation; a discussion with the perpetrator's managers, or equivalent; the recommendation of anti-discrimination training or workshops.
- Disciplinary action for the perpetrator – a written warning from a superior or equivalent; a recommendation that procedures for a formal complaint are set in train.

### **2. 'Hard' Approach – a formal complaint according to the regulations of the Anti-Discrimination Procedures**

For these procedures to be initiated, the harassed person needs to raise an official complaint with the Anti-Discrimination Commission. The complaint is public and is filed with the Anti-Discrimination Co-ordinator. Information about the complaint raised is shared with the person against whom the complaint is made and with that person's superiors or equivalent. The Anti-Discrimination Commission undertakes an investigation with the aim of ruling whether the behaviour in question constitutes discrimination.



The Anti-Discrimination Commission can choose to recommend an intervention (for example, reassigning an employee, changing a group in the instance of a student, obligatory participation in anti-discrimination workshops, etc.) or to impose disciplinary sanctions. The ruling might also recommend the initiation of an anti-harassment procedure under labour law.

The ruling of the Anti-Discrimination Commission is shared with the Rector and the Dean (or another appropriate senior person), the person who initiated proceedings and the person against whom the claim is made. After considering the view of the relevant senior person, the Rector makes a decision about the methods for rectifying the situation, the nature of disciplinary action and the referral of the matter to a disciplinary commission. The decision of the Rector is shared with the person who initiated the action.

**CONTACT DETAILS:**

Academic Ombudsman  
dr Anna Cybulko  
ombudsman@uw.edu.pl  
tel. 22 55 27 214  
www.ombudsman.uw.edu.pl

UW Equality Specialist / Anti-Discrimination Co-Ordinator  
rownouprawnienie@uw.edu.pl

The Student Ombudsman  
rps@samorzad.uw.edu.pl

In the academic year 2020/2021 you can also contact the local student government consultant for sexual violence in The Student Ombudsman team:  
konsultantka@samorzad.uw.edu.pl

**For additional support:**

UW Centre for Psychological Help  
tel. 694 711 731



**HELP**

## RELATIONSHIPS AND SEXUAL HARASSMENT

Sometimes people who meet in the workplace or at their place of study form a private relationship that is more than friendship.

In an instance where this relationship is an intimate and emotional one, and at the workplace or in the study environment there is a necessarily formal relationship between the two people – it transpires that the relationship is inappropriate and inadmissible from the point of view of University of Warsaw. Where there is a formal working relationship between two people, the subordinate person who is also in an emotional relationship with his or her superior may be treated differently than a person with no personal relationship of this kind. Note that such treatment may be preferential (better) or discriminatory (worse). Equally importantly, sexual harassment can still occur also when the relationship is over; it is then likely that, for example, one party would like the relationship to continue and the other wants it to be over.

**To ensure the equal treatment of all employees and students at University of Warsaw and to protect them against sexual harassment, the following kinds of intimate relationships are considered inappropriate and inadmissible:**

- a relationship between the person running a class (an academic teacher) and an undergraduate (BA) or graduate (MA) student – even if the person running the class does not teach, assess the work of, nor advise the student, either presently or previously;
- a relationship between a doctoral candidate running classes and someone who takes part in those classes;
- a relationship between a lecturer and a doctoral student – if the lecturer is, or might in the future be, responsible for the progress of the student's doctoral studies;
- a relationship between someone working in university administration and an undergraduate (BA) or graduate (MA) student – if the employee is responsible for advising the student or has direct influence over their situation as a student.

In the event of the relationships described below it is necessary that an appropriate senior person at University of Warsaw is immediately informed:

- a relationship between students, if one of the students teaches or formally assesses the other;
- a relationship between university employees, if one has a position of power over the other.

In the case of a relationship between university employees at UW where one employee is the other's superior, it is important to proceed with particular care and transparency. This kind of relationship should be public because there is a risk of favouritism and discrimination, and there can be a negative impact on the atmosphere at work.

**LEGAL DEFINITIONS:****Art. 18<sup>3a</sup> §6 of the Labour Code**

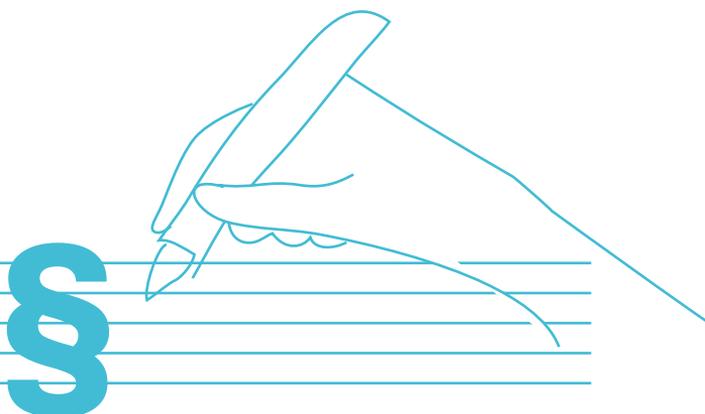
Discrimination on the grounds of sex is also taken to include any form of unwanted conduct of a sexual nature, or referring to a person's sex, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, including verbal, non-verbal or physical conduct (sexual harassment)

**Art. 18<sup>3a</sup> § 7. of the Labour Code**

The submission of an employee to harassment or sexual harassment, as well as his conduct in order to reject harassment or sexual harassment, cannot inflict any negative consequences toward the employee.

**Article 3 Clause 4 of the Act on the Implementation of some regulations of the European Union regarding equal treatment**

4) sexual harassment – this shall mean the any form of unwanted verbal, non-verbal or physical conduct of a sexual nature towards a natural person or with respect to sex, with the purpose or effect of violating the dignity of this person, in particular by creating an intimidating, hostile, degrading, humiliating or offensive environment for this person;



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## **Relevant provisions of the Penal Code of 6 June 1997, Articles 197–199.**

### **Article 197. Rape or coerced sexual acts**

§1. Whoever, by force, illegal threat or deceit subjects another person to sexual intercourse, shall be subject to the penalty of the deprivation of liberty for a term of between 1 and 10 years.

§2. If the perpetrator, in the manner specified in §1, makes another person submit to other sexual act or to perform such an act, he shall be subject to the penalty of the deprivation of liberty for a term of between 6 months and 8 years.

§3. If the perpetrator commits rape:

1) jointly with another person,

2) against a minor under 15 years of age,

3) against one's own parent, child, adopted child, adoptive parent, brother or sister, he or she shall be subject to the penalty of the deprivation of liberty for a term of no less than 3 years.

§4. If the perpetrator of an act defined in §1-3 was acting with unusual cruelty, he or she shall be subject to the penalty of the deprivation of liberty for a term of no less than 5 years.

### **Article 198. Sexual abuse of a vulnerable or incapacitated person**

Whoever, taking advantage of the vulnerability of another person, or of the lack of ability to recognise the significance of the act or ability to control his/her conduct resulting from mental disability or disorder, subjects such a person to sexual intercourse or makes him or her submit to another sexual act or to perform such an act shall be subject to the penalty of the deprivation of liberty for a term of between 6 months and 8 years.

### **Article 199. Sexual abuse of a relationship of dependence or a critical situation**

§1. Whoever abuses a relationship of dependence or by taking advantage of a critical situation to subject such a person to sexual intercourse or makes him or her submit to another sexual act or to perform such an act shall be subject to the penalty of deprivation of liberty for up to 3 years.

§2. If the act refined in §1. was committed against a minor, the perpetrator shall be subject to the penalty of the deprivation of liberty for a term of between 3 months and 5 years.

§3. Whoever engages in sexual intercourse with a minor or in another sexual act, or makes them either submit to, or perform, such activity, by abusing their trust or either promising or granting to them any kinds of material or personal advantage, shall be subject to the penalty defined in §2.

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**[www.rownowazni.uw.edu.pl](http://www.rownowazni.uw.edu.pl)**