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# Dealing with Sexually Explicit Material Procedure

## Information Technology Services Policy

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### 1 Purpose

To protect staff and students, to minimise reputational risk, and to maintain the standards expected of a public institution in New Zealand, the University needs to have in place a robust procedure for dealing with, and monitoring the use of, sexually-explicit material (SEM), and a firm audit trail of the way in which that procedure is managed throughout the University.

The University is a place where social issues which are sometimes controversial, including those which pertain to sexuality, are legitimately researched, analysed and studied by academic staff and students. Hence the situation is more complex than imposing an outright ban on accessing, storing, showing or viewing SEM. For example, SEM may be researched in areas such as Criminology, Politics, Art History, Psychology, Media Studies and others, and such material may also appear in a number of taught courses in which sexuality is a component or dominant theme.

A primary focus of this procedure is to clarify steps which will be taken when SEM is imported to or made available on the University's information technology (IT) systems. However, the procedure is also intended to facilitate legitimate academic use of SEM at Victoria University.

### 2 Organisational Scope

These are University-wide procedures and apply to all staff, students and academic visitors. However, it is recognised that the Library is sometimes involved in the purchase and storing of SEM as part of its acquisitions process and so the procedure outlined below would not normally apply in the Library context.

### 3 Definitions

For purposes of this procedure, unless otherwise stated, the following definitions shall apply:

**Sexually-Explicit Material (SEM):** This term is used here in preference to the word 'pornography' since the latter is ill-defined and may be dependent on context and cultural setting. For the purposes of this procedure SEM is defined as follows:

*'Material (textual, graphic or pictorial) of an explicit sexual nature and which is likely to be classified by the Office of Film and Literature Classification as a restricted publication to persons 18 years of age or over.'*

Such material may be held within, or accessed via, University IT systems or embodied in other media. [The Films, Videos, and Publications Classification Act 1993](#) also encompasses the depiction of torture, extreme violence or cruelty, and to avoid constant repetition these are to be taken as being included with SEM in this procedure.

- ‘Use’ of (SEM): This term includes accessing, storing, reproducing, publishing, distributing, showing or viewing SEM, whether in association with Victoria University’s IT systems or otherwise.
- FVPC Act: This refers to [The Films, Videos, and Publications Classification Act 1993](#) and its Amendment Act 2005. In brief, the Amendment extends the legislation to cover electronic or computer files and also extends the meaning of ‘objectionable’.
- Objectionable: The meaning of this word is defined in Section 3 of [The Films, Videos, and Publications Classification Act 1993](#). In essence it encompasses the description, promotion or support of the sexual exploitation of children or young persons, necrophilia, conduct involving urine or excrement, bestiality, and torture or the infliction of extreme violence or extreme cruelty. A judgement about whether material falls into the category of ‘Objectionable’ is the responsibility of the Office of Film and Literature Classification and can result in criminal proceedings.

## 4 Procedure

### 4.1 Procedure to Obtain Permission for Authorised Use of SEM

- (a) [The Films, Videos, and Publications Classification \(FVPC\) Act 1993](#) prohibits the making, copying, possessing, or distribution of any ‘objectionable’ publication. An application for an exemption to do so for the purposes of teaching and research at the University would need to be made to, and approved by, the Office of Film and Literature Classification before any application under this procedure is submitted.
- (b) The procedure for authorisation, shown in Appendix A, is similar for teaching and research, the difference being whether Academic Committee or University Research Committee is the approving body.
- (c) The Head of School (and, if relevant, the research student’s principal supervisor) is asked for comment and endorsement of the application but, for consistency and monitoring, approval rests with the relevant University-level committee.
- (d) Any cases for approval in the context of teaching would need to make clear whether permission was being requested for SEM to be shown to classes and/or reproduced in course notes or other course materials including e-learning content or audio-visual material. Particular care would need to be taken if SEM were loaded on an e-learning system to warn the students on that course that they should not view the material in such a situation where it is easily viewable by others, to whom it may cause offence.
- (e) In the case of subjects where there may be occasional incidental use of SEM (e.g. Film Studies), it would be appropriate for the Head of School to seek generalised and continuing approval for this. An Authorisation Register (joint for the two Committees) will be kept and will be reviewed annually by those Committees. If any authorisations have expired, and were not extended then, if internet access to explicit websites had previously been granted, the normal access blocking would be re-imposed. The staff member would be required to delete all SEM stored on University IT systems, unless approval had previously been obtained for its retention.

#### **4.2 Procedure if Unauthorised Use of SEM by a Staff Member is detected**

- (a) This procedure is shown in Appendix B, which refers both to IT-based SEM and potentially also the use of SEM in other forms. The detection would most likely be by the ITS Security Manager or other ITS staff, or possibly by staff in IT operations other than those administered centrally. In the latter case, the staff concerned should notify the ITS Security Manager. For IT-based material their first step would be to check with the Joint Register if the person concerned had approval for use of SEM. If this were not the case then they would archive the material, or a sample of it, and inform the University's Employee Relations Consultant and the Director, ITS, who together would come to a judgement about whether the material was such that it contravenes other University policy documents. Further, if their view was that the SEM might be objectionable, then the University's Employee Relations Consultant would inform the Department of Internal Affairs. The Employee Relations Consultant and Director, ITS, would make a similar judgement on any SEM which was not IT-based.
- (b) Irrespective of whether or not the SEM were judged potentially objectionable, if it were determined that the material contravened other University policy documents then a formal disciplinary process would be initiated. Disciplinary action in respect of the unauthorised use of SEM by a staff member will be dealt with in accordance with the [Conduct Policy](#). Accordingly:
- (i) where the employee is an academic staff member, the disciplinary process would be conducted by a manager who has an HR delegation of Level 2 (e.g. a member of the Senior Management Team) with the assistance of Human Resources and keeping the relevant Head of School fully informed.
  - (ii) Where the employee is a general staff member, the disciplinary process would be conducted by a manager who has an HR delegation of Level 3, with the assistance of Human Resources.
  - (iii) There is also the option of applying tikanga Māori as a disciplinary process.
- (c) The Director HR will consider how best to maintain consistency of advice in such matters from the HR team.
- (d) Summary dismissal is a likely consequence of the unauthorised use of SEM. Accordingly, there is the need for periodic reminders to the University community, one form of which is a pop-up window when logging onto the University network. In view of the proliferation of SEM on the Internet, and the real possibility of inadvertent access and downloading, it would be important, before commencing disciplinary procedures, to distinguish between unintended and deliberate access to SEM.
- (e) The university may also consider it appropriate to refer a matter to an external agency (e.g. the Police or Department of Internal Affairs) for its investigation.

#### **4.3 Procedure if Unauthorised Use of SEM by a Student is Detected**

This procedure is similar to that in 4.2 above. Unauthorised use of SEM by a student will be dealt with in accordance with the [Student Conduct Statute](#). The Facilitator and Disputes Advisor would be informed in all cases and would advise either the Head of School (HR Delegation Level 3) in the case of misconduct, or the relevant PVC (HR Delegation Level 2) in the case of serious misconduct.

#### 4.4 Conclusions

This procedure is intended to provide a reasonable balance between having safeguards in place to deter and defeat unauthorised access, and the considered authorisation of access to SEM to those who demonstrate a genuine academic need for it. The formalising of this procedure and the keeping of a Register of authorised access will ensure a centrally-monitored audit trail to protect staff, students and the University and so demonstrate that Victoria University is taking careful and responsible measures in this area of public and institutional concern.

### 5 Legislative Compliance

The University is required to manage its policy documentation within a legislative framework. The legislation directing this procedure is the:

[The Films, Videos, and Publications Classification Act 1993](#)

### 6 References

[Communication Systems Policy](#)

[Conduct Policy](#)

[Information Systems Statute](#)

[Student Conduct Statute](#)

### 7 Appendices

Appendix A: [Authorised Use of Sexually-Explicit Material](#)

Appendix B: [Procedure for Dealing with Unauthorised Use of Sexually-Explicit Material by a Staff Member or Academic Visitor](#)

Appendix C: [Application Form for Authorisation to use SEM in Teaching](#)

Appendix D: [Application Form for Authorisation to use SEM in Research](#)

Previous Version: [archived\\_Dealing with Sexually Explicit Material Procedure\\_20090614.pdf](#)

### 8 Approval Agency

Chief Operating Officer

### 9 Approval Dates

This procedure was originally approved on: 15 September 2006

This version was approved on: 15 June 2009

This version takes effect from: 15 June 2009

This procedure will be reviewed by: 15 June 2012

### 10 Contact Person

The following person may be approached on a routine basis in relation to this procedure:

Director, Information Technology Services

Ext: 5551