

## **Consensual interactions between members of the UM community (online and offline)**

All members of the UM community have the right to be treated and interacted with respectfully. They also have a duty to treat and interact with others the same way. Among other things, this means that no sexual activity – whether online or offline, comments or behaviour<sup>1</sup> – should occur unless all parties involved have agreed to it. This mutual agreement is called consent. Consent is a freely given and conscious agreement between everyone participating in and/or experiencing an instance of sexual behaviour, as well as the manner, place, and time of its occurrence.

What are the characteristics of consent?

- Freely given: Consent must always be freely given (voluntary). Situations in which someone agrees to sexual behaviour under duress or as a consequence of threats, intimidation, being misled, manipulation and/or violence are not consensual.
- Enthusiastic and willing: Consent is given through words or actions that are clear and understandable to everyone involved in the sexual interaction. Furthermore, consent should be given willingly. This means that nobody involved is being pressured or agreeing only in order to avoid potential (implicit or explicit) negative consequences. Failing to say “No”, “Stop”, “Don't do that”, or not resisting some other way doesn't mean that someone has silently consented. Even if the people involved are (or once were) in a romantic relationship, consent cannot be assumed without confirmation. In other words: silence is not consent.
- Similarly, consent can be revoked at any time.

Consent cannot be given if a person is, or should be deemed, incapable of assessing the nature, extent, and consequences of the sexual behaviour. This might be because they are under the influence of drugs or alcohol, have an intellectual disability, are

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<sup>1</sup> For more information on the different kinds of sexual violence, see:  
<https://www.maastrichtuniversity.nl/seksuele-veiligheid/information>

asleep or unconscious, or are younger than sixteen, and the other participants should have been aware of this.

Flirtatious behaviour does not indicate consent to sexual activity. Similarly, a person wearing certain types of clothes, accepting gifts, or extending or accepting an invitation to go somewhere does not mean that they consent to sexual activity.

If consent for sexual activity was given in the past, it does not automatically mean that the person in question has consented to sexual activity at a later date. Consenting to a specific sex act also doesn't imply consent for other sexual activities. Consent needs to be provided for every sexual act, every time.

The new Sexual Offences Act came into effect in the Netherlands on 1 July 2024. This legislation provides better legal protection for victims of sexual assault and sexual violence, and expands the categories of sexual violence (both online and offline) that are punishable by law. For example, sexual harassment and "sex chatting" can now be prosecuted. The legislation also increases the penalties for sexual offences. In cases of sexual assault and rape, the victim is no longer required to prove that they were forced to take part, and there is now no statute of limitations on rape. The guiding principle of the legislation is that sexual activity must always be consensual and that the participants must be on an equal footing. This applies to both in-person and online behaviour. Note that incidents that took place before 1 July 2024 are still subject to the old legislation.

### **Alcohol and drugs**

Using alcohol or drugs does not necessarily mean a person cannot consent to sex. It is only in cases where the person in question can no longer assess the nature, extent, and consequences of the sexual activity as a result of drugs or alcohol that they are unable to give consent. This is the case, for example, if the person:

- is wobbling, staggering, or falling over;

- can no longer stand or walk without help;
- is not making sense/slurring their words and is unable to express themselves clearly;
- seems confused about their surroundings;
- has bodily excretions (such as urine, excrement, or vomit) on or near them;
- is unconscious, asleep, or otherwise unaware of the sexual activity.

The above is an incomplete list of examples, and there may be other indicators.

The use of alcohol and or drugs is never a valid reason for taking part in sexual behaviour(s) with someone who has not given consent. In other words, "I was under the influence and didn't realise that the other person did not consent" is not an excuse for sexual violence and will not be considered a mitigating circumstance.

### **Getting help in cases of sexual violence and undesirable behaviour**

If you notice that someone is at risk of becoming a victim of sexual violence, you can intervene – for example by getting that person to a safe space, warning them, and/or alerting the authorities.

UM students who have experienced sexual violence or undesirable behaviour can contact the Social Safety Team – Students. Students can get in touch with the team just to talk, to report an incident, to access support, to discuss ways of improving their situation through suitable next steps, and/or to get an onward referral. Furthermore, students who have been a victim of sexual violence or undesirable behaviour directly connected to their studies at UM can submit a formal complaint to the Complaints Committee for Undesirable Conduct via the Complaints Service Point (CSP), which can investigate the incident and advise the Executive Board on potential sanctions. The Social Safety Team can provide support and assistance during this process.

UM staff who have experienced sexual violence and/or undesirable behaviour directly connected to their work at UM can report this to the Concerns & Complaints Point (CCP) coordinator or to a confidential advisor.

UM students and staff who have experienced sexual violence or undesirable behaviour outside the university can contact the police and the Sexual Assault Center (CSG) at any time. The CSG provides free and anonymous support.<sup>2</sup>

We will briefly explain the difference between a report and a complaint below.

### *Report (informal)*

Making a report means that a student, staff member, or third party chooses to talk to UM staff about an incident of sexual violence and/or undesirable behaviour, and agrees to the team making an (anonymous) note of this discussion. The person making the report is sometimes called the complainant. The complainant does not need to be someone directly involved in the incident (i.e. the target or perpetrator of the sexual violence and/or undesirable behaviour). They could also be a bystander, or someone who has another reasons to want to raise concerns about (suspected) undesirable behaviour. Reports can be made to a number of different people, such as a manager (for staff) or a study advisor or block coordinator (for students). There are a range of different ways in which a report might be followed up.

### *Complaint (formal)*

A complaint is when one or more people submit a written complaint to the CSP (for UM students) or directly to the external Complaints Committee for Undesirable Conduct (for UM staff) in accordance with UM's Joint Complaints Regulation against Undesirable Conduct. This is a formal process, which is to say that an independent commission will deal with the complaint by following a set procedure. In practice, submitting a complaint is often seen as a last resort after other attempts at resolution have failed.

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<sup>2</sup> You can find out more on the website: <https://www.maastrichtuniversity.nl/sexual-violence-support-and-advice>.

### **Taking action in response to sexual violence and/or undesirable behaviour**

In addition to the informal steps described above, there are a number of formal measures that universities can implement.

In a constitutional democracy like the Netherlands, the powers of bodies governed by public law (such as universities) are defined and limited by legislation. This is to prevent abuses of power and arbitrary decision-making. Under the Higher Education and Research Act (WHW), universities only have the power to implement measures following (sexual) violence and undesirable behaviour if the incident occurred on university grounds or in university buildings. The law prescribes that such measures may consist of a temporary or permanent ban on entering UM buildings and grounds, or the student in question having their enrolment withdrawn.

At UM, these measures are outlined in the General house rules for the maintenance of public order at Maastricht University. Legally, UM does not have the ability to take action in response to behaviour that takes place outside of the university.

As an example, this means that if someone is sexually assaulted in the university library and UM is made aware of the incident, the university can conduct an investigation and take disciplinary action as required. However, if the sexual assault took place at a party at someone's home, the law does not give UM the right to take action against the (alleged) perpetrator. In this situation, the victim would need to report the incident to the police, after which the public prosecutor would make a decision on whether to charge the perpetrator with a crime. Reporting the incident to the police is also an option for the victim in the first scenario.

Due to the legal limitations imposed on it, the Executive Board cannot always take action. However, all victims of sexual violence and undesirable behaviour can access confidential support from the UM Social Safety Team – Students, their study advisers, and the UM psychologists.

### **Making a police report**

If someone becomes a victim of sexual violence and or undesirable behaviour, it is their choice whether or not to report the incident to the police. No-one can force them to do so.

In principle, UM is authorised to report any punishable offence it is aware of to the police (Article 161 of the Code of Criminal Procedure). This does not mean it is required to do so; only that it has the ability to. However, there are some cases in which UM is obligated to make a report (see Article 160 of the Code of Criminal Procedure).

In certain situations, UM may also be obligated to make a report by the Higher Education and Research Act (WHW). If there is a reasonable suspicion that someone who carries out work for UM is committing or has committed a sexual offence against an underage person, the Executive Board is legally obligated to report this to the police.

**You can find more information here:**

**Information in English:**

Sexual Safety:

<https://www.maastrichtuniversity.nl/sexual-safety>

Support in the event of sexual violence (students and staff):

<https://www.maastrichtuniversity.nl/sexual-violence-support-and-advice>

Social Safety Team – Staff (Concerns & Complaints Point)

<https://www.maastrichtuniversity.nl/social-safety-everyone-concerns-complaints-point>

Social Safety Team – Students:

<https://www.maastrichtuniversity.nl/nl/team-sociale-veiligheid-studenten>

Regulations and Codes of Conduct; including a link to the *UM Integrity Code of Conduct* and *General house rules for the maintenance of public order at Maastricht University*

<https://www.maastrichtuniversity.nl/about-um/organisation/codes-conduct-regulations>

Overview of Maastricht University regulations; including a link to the *Student Charter* and *Complaints and Disciplinary Procedures Regulation for Reporting and Processing Inappropriate Behaviour: sexual intimidation, aggression, violence, harassment and discrimination towards UM students and staff*:

<https://www.maastrichtuniversity.nl/studeren/toelating-inschrijving/inschrijving/maastricht-university-regulations>

Complaints Service Point (for students):

<https://www.maastrichtuniversity.nl/nl/support/during-your-studies/complaints-service-point-service-desk-students-objections-appeals-or-1>