



IONA COLLEGE
TRINITY

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Sexual Assault and Sexual Harassment Prevention Policy and Procedure

Approved by the Board of Directors on 23 November 2021

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1. Purpose

This Policy outlines a framework for the prevention of sexual assault and sexual harassment, the response to reported incidents and the mitigation of the negative consequences of sexual assault and sexual harassment should it occur.

2. Scope

This Policy applies to:

- all students, staff, contractors, and visitors, including those who identify as, trans-gender and gender diverse, LGBTIQ+, Aboriginal and Torres Strait Islander, with a disability, culturally and linguistically diverse
- members of the College's Governing Bodies
- individuals engaged in providing services to the College or receiving services from the College, such as students, contractors or consultants
- all behaviours defined as sexual assault and sexual harassment in this Policy, both on and off campus.

3. Policy

3.1 Principles

The College adopts a zero-tolerance approach to sexual assault and sexual harassment. Sexual assault and sexual harassment are prohibited and constitute serious misconduct. In some cases, sexual assault and sexual harassment are criminal activities and police will be involved. Action will be taken against any person who breaches this Policy and Procedure.

A culture of respect and safety will be developed and maintained, and supported by processes to prevent, prepare for, respond, and recover from sexual assault and sexual harassment.

The reporting of incidents will be encouraged. The College will support complainants, and will appropriately sanction perpetrators. ITC understands that international students may have cultural and language barriers to disclosing or reporting sexual harassment and sexual assault. This is covered during International student orientation sessions, information sessions, and contact staff training.

Where sexual assault and/or sexual harassment takes place outside of the scope of the activities of the College, support services will still be made available.

This Policy and Procedure applies whether the sexual assault or sexual harassment is initiated in person, by telephone, or through electronic technologies such as mobile phone cameras, social networking websites, emails, SMS/MMS communications, through another person, agent, or any other means.

In its approach to the prevention and management of sexual assault and sexual harassment the College will:

- seek to prevent the occurrence of sexual assault and sexual harassment across all areas of the College's operations, on campus and online
- ensure management is aware of its responsibilities for establishing controls and procedures for the prevention and detection of, response to, and recovery from instances of sexual assault and sexual harassment
- ensure staff members are aware of the College's expectation to report promptly and respond effectively to cases of sexual assault and sexual harassment
- treat all reports with confidentiality and care

- provide assurances to staff, students, and the wider community that any suspected case of sexual assault and sexual harassment will be fully investigated, and sanctions imposed, up to termination of enrolment or employment, and
- provide integrated support to individuals who have experienced sexual assault and sexual harassment to enable recovery and resumption of studies or employment.

3.2 Strategies

Prevention

Culture: The College promotes a culture of mutual respect and safety through a process of awareness, training, and monitoring.

Leadership: Senior staff will demonstrate a high level of commitment to the prevention of sexual assault and sexual harassment at the College.

Staff awareness: All staff members will have a general awareness of issues relating to sexual assault and sexual harassment in the higher education sector and understand how such conduct should be managed if it is reported, witnessed or suspected.

Student awareness: Students are made aware of expected behaviours and receive information and guidance on on-campus and online safety. Student orientation will include a module on sexual assault and sexual harassment and regular educational campaigns on sexual assault and sexual harassment are conducted, including about sexual harassment on social media and the link of the use of drugs and alcohol to sexual assault and sexual harassment.

Risk assessment: The College will conduct risk assessments for the identification and assessment of precursors, early warning signs, and 'red flags' for early intervention. Risk assessments will be conducted regularly, in particular after changes in staffing or to the campus.

Facilities: As far as is reasonably practicable, campus facilities and onsite security are designed to prevent or minimise the risk of sexual assault and sexual harassment.

Preparedness

Training: Staff members will be trained to receive reports of sexual assault and sexual harassment, including on privacy and confidentiality requirements, and to initiate an adequate response from the College. Staff members responsible for investigating such reports will be, and be seen as, independent and will receive institutional support to conduct an effective, fair and prompt investigation.

Information: Information on immediate assistance in the case of sexual assault or sexual harassment will be made available in ways that students and staff can access it as and when needed, including key College contacts and relevant external services, such as support helplines.

External services: The College will develop and maintain a network of services to respond to sexual misconduct, including counselling services, local police, hospitals, sexual assault services, and legal centres.

Response

Support: The College will provide integrated support to a student or staff member who has experienced sexual violence, including professional support (e.g., counselling), reasonable adjustments, and other measures to enable recovery and return to study or employment.

Investigation: The College will investigate all reports of sexual assault and sexual harassment and will provide a response to the person who made the report.

Sanction: Perpetrators will be sanctioned, up to termination of enrolment or employment. If the sanction does not involve exclusion or termination, it will always include mandatory participation in educational programs on sexual assault and sexual harassment.

Referral to Police: The College will refer cases to the Police only with the consent of the person or where legally required to do so.

Cultural competence: ITC acknowledges the needs and sensitivities of students from diverse backgrounds and experiences, such as cultural, gender, and social diversity must be recognised and managed in an appropriate manner. It will achieve this by ensuring its staff has, or has access to, individuals with the necessary expertise to respond to disclosures of sexual assault and sexual harassment in a culturally competent way. Identified groups include but are not limited to:

- those with a disability
- Aboriginal and Torres Strait Islander peoples
- LGBTIQ+ community
- culturally and linguistically diverse students, and
- international students, including people who would prefer to disclose their experience in their native language.

Recovery

Ongoing support: individuals who experienced, and persons who reported, sexual assault and sexual harassment will receive ongoing support from the College, including academic support, reasonable adjustments, employment support and other measures to enable participation and progression. Staff members and supervisors will take into consideration the psychological impact of sexual assault and sexual harassment and its negative consequences for staff and students. With the approval of the Principal, procedures may be adjusted to maintain confidentiality, e.g., with reasonable adjustments for students which normally require disclosure to staff members.

4. Definitions

4.1 Consent

You can only consent to sexual behaviour, which means you agree to the behaviour, when you are not being intimidated and you are aware of what is going on. For example, a person cannot give free agreement where they are:

- bullied, threatened, manipulated or tricked
- asleep, unconscious, or so affected by drugs or alcohol as to be unable to form a rational opinion
- intimidated by the nature or position of another
- if they are silent (that is do not say or do anything to communicate consent).

You or your sexual partner can decide at any time that you don't consent to sexual behaviour continuing, even if you've already started. If this happens, both of you must stop right away.

4.2 Sexual assault

What is sexual assault?

Sexual assault is any unwanted behaviour of a sexual nature that makes a person feel uncomfortable, frightened or threatened. It can occur when a person is forced, tricked or coerced into sexual behaviour without agreeing to it.

Sexual assault includes unwanted or inappropriate touching or kissing of a person's body, having sex with someone without their consent, and rape. It can also involve exposing another person to sexual behaviour without their consent, such forcing the person to watch pornography.

Sexual assault is a crime and a major health and welfare concern in Australia. Almost 2 million Australian adults have experienced at least one sexual assault since the age of 15.¹

Response

In an emergency or in circumstances of immediate danger on campus, the person who has experienced, or sees, sexual assault should call:

- Police or emergency services (24 hours): 000, and then
- Student Services Manager: 0433 508 743

Where there is an incident of sexual assault, the College will:

- take immediate steps to provide appropriate support to the person who has experienced sexual assault, including the engagement of external sexual assault services where the person provides consent or arrange for them to talk confidentially with a support staff of the same gender
- encourage but not require the person to make a report to the Police
- ensure that the Principal is informed and implement the processes set out in the *Critical Incident Policy and Procedure*.

Where a person who has experienced sexual assault chooses to make a report to the Police while the College is investigating the incident of sexual misconduct, the College will suspend its investigation. Any action taken by the College to support the person who has experienced sexual assault or to make adjustments to its own environment or procedures, as a result of any serious incidents will occur independently of any Police criminal investigation.

4.3 Sexual Harassment

What is sexual harassment?

Sexual harassment is any unwelcome sexual behaviour that is likely to offend, humiliate or intimidate. It does not relate to mutual attraction or friendship. The *Sexual Discrimination Act 1984* (Cth) defines sexual harassment as when

- the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
- engages in other unwelcome conduct of a sexual nature in relation to the person harassed

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.

¹ <https://www.healthdirect.gov.au/sexual-assault-and-rape>

Examples of sexual harassment include but are not limited to:

- unwelcome physical touching including deliberately brushing up against the other person
- uninvited kisses or embraces
- requests for sex
- staring or leering
- sexually explicit conversation
- suggestive comments or jokes
- unwanted requests to go out on dates, especially after a prior refusal
- intrusive questions about the person's private life or body
- making promises or threats in return for sexual favours
- "flashing" (exposing private parts of the body) or sexual gestures
- sex-based insults, taunts, teasing or name-calling
- touching or interfering with a person's clothing, e.g., lifting up skirts, flicking bra straps
- offensive phone calls or letters
- displaying posters, magazines, or screen savers of a sexual nature
- stalking, sexual insults, or taunting
- emailing pornography or rude jokes
- sending sexually explicit texts
- offensive messages through new technologies such as mobile phone cameras, social networking
- websites, emails, or SMS/MMS communications

Sexual harassment can also an offence under criminal law may be referred to the police; this includes matters involving:

- sexual assault
- physical molestation or assault
- indecent exposure
- stalking
- obscene communications

5. Procedures

5.1 Making a formal complaint of sexual harassment and/or sexual assault

A formal complaint may be made by the student concerned or by another person on their behalf, subject to their consent.

When a student lodges a formal complaint of sexual assault or sexual harassment the student must be referred to the trained support person who will offer available support services and can assist them with the necessary procedures and referral to the police, with their consent. However, it may be appropriate for the trained support person to refer the student to an individual with the necessary expertise to respond to disclosures of sexual assault and sexual harassment in a culturally competent way

Complaints are kept strictly confidential and information on the incident is provided to staff only where required to respond effectively to the report of the complaint.

Students may decide not to proceed with their complaint. Should this occur the student is still able to use all the College's support services.

The College will accept anonymous reports or reports for incidents which happened in the past, however, the College may be limited in its response due to lack of evidence or information.

A student may choose to disclose an incident of sexual assault or sexual harassment to a staff member or student support person without wishing to make a formal complaint and/or reporting the matter to the police. Where this situation arises referral to the trained support person must be made who will seek to assist and offer all the College's support services.

Investigations

Complaints of sexual assault or sexual harassment will be investigated promptly, fairly and confidentially.

Most complaints will be investigated by the Student Services Manager. In circumstances where a report is submitted directly to the Principal, or the Principal determines that escalation is required, an independent appropriately experienced third party may be appointed to conduct the investigation.

The investigator/Principal will review the initial report and will interview the complainant and the respondent(s) and any other person who may have been involved or witnessed the incident(s).

All parties to a complaint of sexual assault or sexual harassment have the right to:

- natural justice and fair treatment at all stages of the process
- be accompanied by a support person when being interviewed as part of an investigation

The investigation will normally be concluded within ten (10) working days of receipt of the initial report.

Findings and outcomes

The investigator/Principal will prepare a report with their findings and recommendations for action. The findings may be either:

- sexual assault or sexual harassment has been established
- sexual assault or sexual harassment has not been established.

Where sexual assault or sexual harassment has been established the recommendations will include appropriate responses and any College-level actions that may need to occur, such as more training or awareness programs.

The Principal will review, and if appropriate, approve the recommendations and prepare or authorise a letter of outcome for both the complainant and respondent(s). The letter must be sent within ten (10) working days of the conclusion of the investigation and will advise:

- the findings and outcome of the investigation
- the responses and/or penalties to be applied where appropriate
- the right of either party to the complaint to appeal the decision.

Depending on the identity of the perpetrator, the response will be implemented in accordance with either the *Student Misconduct Policy and Procedure* or the *Human Resources Management Policy and Procedure* and may include the mandatory completion

of a sexual misconduct awareness program, through to suspension or exclusion from enrolment or termination of employment.

The Principal is responsible for ensuring that any recommendations for College-level changes are implemented.

5.2 Records

An individual, confidential file is opened for each incident and all positive findings of sexual assault or sexual harassment are recorded.

A record of actions taken, students and staff involved, and any available outcomes/supporting documents will be included in the file.

It is the responsibility of the Principal to ensure that complete records are filed for reports of sexual assault or sexual harassment.

5.3 Monitoring

The College collects data on reports of sexual assault or sexual harassment and any follow-up actions.

The College uses data collected from the Register to monitor trends and emerging issues.

The College will improve its strategies for sexual assault or sexual harassment prevention, response and recovery based on the collected data.

The Principal will submit an annual report to the Board of Directors on the adequacy and effectiveness of College strategies.

The College is required to, and will, report material changes to TEQSA, including incidents of sexual assault or sexual harassment.

5.4 Appeals

If a party to a complaint of sexual harassment or sexual assault is not satisfied with the way the complaint has been handled, they may lodge an appeal as follows:

- students may appeal under the provisions of the *Student Appeals Policy and Procedure*
- staff may appeal under the provisions in the *Human Resource Management Policy and Procedure*.

6. Responsibilities

All students are to:

- ensure their behaviour and conduct always reflects the standards of the College's *Student Code of Conduct*
- reporting observed or alleged sexual assault or sexual harassment promptly.

All staff:

- will report observed or alleged sexual assault or sexual harassment promptly
- must protect the confidentiality of information relating to reports of sexual misconduct.

The Student Services Manager is responsible for:

- providing all necessary support to students who make any disclosures in relation to sexual assault or sexual harassment, including referring students to specialist external services where necessary

- supporting students to lodge a formal complaint where they wish to do so.

The Principal is responsible for:

- implementing the strategies involving students under this Policy and Procedure
- managing any escalated cases of sexual assault or sexual harassment affecting students where required, including the appointment of a third-party investigator
- approval of findings, recommendations and penalties arising from investigations into sexual assault or sexual harassment affecting students
- escalating any substantial or systemic issues relating to sexual assault or sexual harassment to the Board of Directors as they emerge
- submitting an annual report to the Board of Directors on the adequacy and effectiveness of College strategies
- reports of material breaches to TEQSA where required.

The Board of Directors is responsible for:

- the overall governance of this Policy
- approving any strategies and resources to improve the College's ability to provide a safe environment for all.

7. Definitions

For the purposes of this Policy and Procedure, the following terms are defined as follows:

Complainant	A person who is taking action in relation to a complaint of sexual misconduct under this Policy
Perpetrator	A person against whom a positive finding of sexual misconduct has been made
Respondent(s)	A person or person against whom a complaint of sexual misconduct has been lodged

8. Version history

Version #	Changes	Approval Body	Approval Date
1.0	Original version	Board of Directors	23/11/21
1.1	Changes to the procedure section with regard to disclosures and formal complaints	Board of Directors	27/07/23

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9. Additional Information

Policy Status	Approved
Policy Owner	Principal

Next Review Date	3 years from Approval Date
Associated Internal Documents	<i>Student Misconduct Policy and Procedure</i> <i>Human Resources Management Policy and Procedure</i>
Higher Education Standards Framework (Threshold Standards) 2021	Standards 2.3.1 to 2.3.5
National Code of Practice for Providers of Education and Training to Overseas Students 2018	Standard 6.8
Other Applicable Legislation and Instruments	Tertiary Education Quality and Standards Agency Act 2011
