

Sexual Assault and Sexual Harassment Policy

1. Purpose

Sexual assault and sexual harassment at the Institution is unacceptable and will not be tolerated. The *Sexual Assault and Sexual Harassment Policy* (“policy”) outlines the Institution’s commitment to minimising sexual assault and sexual harassment incidents, promoting a safe environment free from harassment and a culture of respect by changing behaviours and attitudes.

This policy should be read in conjunction with the *Sexual Assault and Sexual Harassment Procedures*, *Student Code of Conduct*, *Complaints and Appeals Policy* and the *General Misconduct Policy*.

2. Scope

2.1 This policy applies to all staff and students including students residing in accommodation both on and off campus regardless of whether that accommodation is managed by the Institution.

2.2 This policy also applies to all activities where the Institution has a duty of care including, but not limited to, activities that are:

on any of the physical and digital campuses;

in any of its facilities;

part of deployment of the Institution’s business;

representative (such as student placements, secondments and exchanges); and

affiliated with the Institution, such as student clubs or study-related camps.

2.3 This policy may not apply where a formal report (known as a complaint as per the *Complaints and Appeals Policy*) is made about someone that is external to the Institution. In such cases there are limits on any penalties that the Institution can impose on that person. However, full access to support services will be available

to any student or staff member who experiences sexual assault or sexual harassment.

3. Definitions

See *Glossary of Terms*.

4. Policy statement

4.1 Introduction

4.1.1 In accordance with Standard 2.3 of the Higher Education Standards Framework 2021, the Institution recognises it has a range of responsibilities to students, and in doing so, actively supports and promotes the wellbeing and safety of students. It aims to ensure a safe environment on campus, online and within accommodation buildings at all times.

4.1.2 The Institution takes a firm position on sexual assault and sexual harassment. It is unacceptable, prohibited and is not tolerated. These behaviours breach the Student Code of Conduct and Staff Code of Conduct and therefore constitute misconduct. Such matters will be dealt with in accordance with the *General Misconduct Policy* (for students) and the relevant misconduct processes outlined in the Employee Handbook (for staff).

4.2 Promoting a culture of respect

4.2.1 Both students and staff can expect to study and work in a safe and supportive environment. To this end, the Institution encourages respectful relationships and a culture of respect across its community at all times.

4.2.2 The safety and wellbeing of all students and staff is the Institution's primary priority. It cultivates an environment whereby consent matters. Any student or staff member experiencing a situation where consent has not been given are encouraged to report it.

4.2.3 The Institution is committed to changing attitudes and behaviours towards

sexual assault and sexual harassment. This is achieved through education, prevention strategies, perpetrator accountability and appropriate victim support.

4.3 Prevention

4.3.1 The Institution recognises that a culture of respect minimises the likelihood of incidents occurring. This is achieved by implementing a range of prevention strategies including but not limited to:

- a. conducting risk assessments and implementing controls on any identified risks;
- b. orientation programs to new students on expected behaviours and potential repercussions for inappropriate behaviour;
- c. consent matters awareness campaigns (including bystander and first responder training);
- d. sexual violence, drug and alcohol abuse prevention education programs and campaigns;
- e. targeted programs for students residing in accommodation buildings;
- f. consulting with clubs and societies that are affiliated with the Institution;
- g. student and staff engagement during policy development to facilitate greater engagement with this policy;
- h. commitment to take prompt action when incidents occur;
- i. systems and processes for responding to incidents;
- j. systems and processes to prevent recurrences.

4.4 Disclosure and formal complaints

4.4.1 Various reporting options are available to students and staff who have experienced sexual harassment and/or sexual assault as follows:

- Confidential disclosure to the Institution (no formal complaint).
- Formal complaint to the Institution.
- Confidential disclosure to the NSW Police (online Sexual Assault Reporting Option (SARO)).
- Formal complaint/report to the NSW Police.

4.4.2 The Institution prioritises the safety and wellbeing of a student or staff

member who discloses or makes a formal complaint.

4.4.3 Those that opt to disclose or make a formal complaint about sexual assault or sexual harassment are treated with compassion and empathy by staff members who have appropriate training. These staff members respond respectfully and are able to provide accurate information and can take appropriate actions.

4.4.4 Students may make a formal complaint under the *Complaints and Appeals Policy* and staff can raise a grievance through the procedures outlined in the Employee Handbook. The Institution provides a specially trained single point of contact to ensure processes are compassionate, consistent and robust.

4.4.5 Information on how to disclose or make a formal complaint about experiences of sexual assault and sexual harassment is widely disseminated and includes:

- a. the difference between disclosure and making a formal complaint;
- b. how to make a disclosure or formal complaint with contact details;
- c. misconduct procedures including timeframes;
- d. notification that the Institution's formal complaint investigation process is not a substitute for a criminal process; and
- e. bystander intervention.

4.4.6 Upon disclosure of sexual assault or sexual harassment, the student or staff member retains full control of how the incident is reported (e.g disclosed, formally reported internally by means of a complaint and/or externally reported and each may happen by itself and in any order).

4.4.7 Upon disclosure an individual is supported when making a decision to make a formal complaint internally, or a formal report to the police, or both. This decision remains with the individual making the disclosure unless mandatory reporting is required by legislation. Some individuals may prefer to report the incident directly to the police, in which case the individual receives the Institution's full support and assistance, as the police are the appropriate body to deal with allegations of criminal conduct. Making a formal report to an external organisation such as the police will not preclude the Institution from taking

internal action as required.

4.4.8 Students and staff members are encouraged to disclose or make a formal complaint even on occasions where the incident occurred beyond the Institution's official business or beyond its grounds.

4.4.9 Students and staff members are entitled to have a support person of their choosing, or people, with them when they disclose, make a formal complaint or access the Institution's services.

4.4.10 Upon receipt of a formal complaint, the Institution will act in accordance with the Complaints and Appeals Policy and General Misconduct Policy. In determining next steps the Institution will have regard to:

- a. the health, safety and wellbeing of the student or staff member making the formal complaint;
- b. the health, safety and wellbeing of the Institution's broader community;
- c. outcomes sought by the student or staff member making the formal complaint;
- d. whether there is a legal duty to report the incident (e.g. underage sexual assault and/or sexual harassment or others at risk of harm);
- e. principles of procedural fairness as outlined in the *General Misconduct Policy* for those accused of sexual assault and/or sexual harassment;
- f. where a report is made to the police any action under the Institution's policies and procedures may be suspended, as the police are the appropriate body to deal with allegations of criminal conduct.

4.4.11 Any student or staff member making a formal complaint will be given the opportunity to state how they would like to see their complaint resolved. While the Institution will make every effort to facilitate reasonable requests, in some instances it may not be possible to achieve that outcome, in which case it will be explained why it is not possible.

4.5 Support and assistance

4.5.1 The institution is committed to ensuring the immediate safety, protection and wellbeing of a student or staff member who has suffered sexual assault or sexual harassment.

4.5.2 Information about support and assistance services is widely disseminated and, upon disclosure, is offered promptly and throughout the reporting process. Support and assistance includes (but is not limited to):

- a. emergency health information;
- b. counselling;
- c. security;
- d. accommodation options;
- e. assistance to ensure understanding of all available options, including reporting to police and making a formal report to the Institution;
- f. information about and assistance with navigating the Institution's formal report and misconduct processes;
- g. for students, information about, and support navigating, the Institution's deferred examination process should they wish to apply, noting that such applications will be considered confidentially (to ensure privacy of the student by limiting the circulation of information about the nature of the request) and irrespective of a student making a formal complaint;
- h. referral to internal and external support services; and
- i. regular and timely communication about the process and its resolution.

4.5.3 In order to avoid causing further harm, the Institution minimises the number of times a student or staff member is asked to recount the experience.

4.5.4 Incidents of sexual assault and sexual harassment that occur beyond the

Institution's official business and beyond its grounds are relevant to the Institution and students and staff members are encouraged to seek support.

4.6 Confidentiality and privacy

4.6.1 The confidentiality and privacy of a student or staff member is protected in accordance with the *Privacy Policy*. For formal complaints, the respondent is provided with sufficient information to respond to any allegation for procedural fairness purposes.

4.6.2 The Institution recognises its mandatory reporting obligations imposed on individuals in certain professions in cases of suspected abuse of students under the age of 18.

4.6.3 In limited circumstances, the Institution may be obliged to report an incident of sexual assault or sexual harassment to the police. These circumstances will be explained to the student or staff member at time of disclosure.

4.7 Cultural competence

4.7.1. The Institution recognises that the experiences, needs and perspectives of distinct population groups may differ. It will ensure its staff has, or has access to others who have, the knowledge and skills necessary to respond to disclosures of sexual assault and sexual harassment in a culturally competent way. These distinct population groups include but are not limited to:

- a. those with a disability;
- b. Aboriginal and Torres Strait Islander people;
- c. LGBTIQ+ community;
- d. culturally and linguistically diverse students
- e. international students
- f. transgender or gender diverse people.

4.7.2 Student or staff members who would prefer to disclose their experience in their native language should contact the Institution as information on interpreting services may be available.

4.8 Misconduct proceedings and natural justice

4.8.1 A respondent to a complaint/allegation of sexual assault or sexual harassment are given the opportunity to respond, and ultimately have the matter determined, in accordance with the *General Misconduct Policy* for students and the Employee Handbook for staff.

4.8.2 All allegations are handled in accordance with the principles of procedural fairness outlined in the *General Misconduct Policy*. Allegations that are found to be proven are deemed as a major breach of expected standards and appropriate penalties will be applied to ensure the ongoing safety of the individual who has made the complaint and the Institution's broader community.

4.9 Data and records

4.9.1 Information about individual disclosures and formal complaints are collected and stored confidentially in a register and include:

- a. details of the incident;
- b. steps taken to respond to the disclosure/complaint;
- c. support or assistance received;
- d. time taken to respond to the disclosure/complaint and/or refer the person to support services;
- e. any feedback provided by the complainant/respondent in relation to the process.

4.9.2 The Institution captures data on de-identified disclosures and formal complaints on a central, confidential register in order to monitor incidents, patterns of behaviour, monitor effectiveness of this policy, continuous

improvement and to prevent reoccurrences of sexual assault and sexual harassment.

4.9.3 A student or staff member who discloses sexual assault or sexual harassment is advised that de-identified information is made available internally for data analysis purposes.

4.9.4 Staff reports of sexual assault or sexual harassment are recorded anonymously and confidentially on the sexual assault and sexual harassment register and brought to the attention of management early and investigated thoroughly.

5. Roles and responsibilities

5.1 The Chief Operations Officer is the Responsible Officer of this policy.

5.2 The Executive Management Group is responsible for ensuring the continued cooperation of all students and staff to promote and embed the principles outlined in this policy into their daily behaviour, decision-making and language. It ensures policies, practices and operations are free from bias and consistent with the intent of this policy.

5.3 Students and staff are responsible for treating fellow community members with respect regardless of background, engaging in a positive, respectful and constructive manner at all times and reporting any incidents of discrimination, harassment or bullying to the Institution.

5.4 The Student Success Centre Manager (students) and the Vice President (People and Training) (staff) are the preferred points of contact for disclosing an incident of sexual assault and sexual harassment.

5.5 The Student Success Centre Manager (students) and the Vice President (People and Training) (staff) report on the nature and number of sexual assault and sexual harassment disclosures and complaints in accordance with the Sexual Assault and Sexual Harassment Procedures. No personal or identifying information regarding the person making the disclosure, or the alleged offender,

is included.

6. Related documents

Complaints and Appeals Policy

Complaints and Appeals Procedures

Employee Handbook

General Misconduct Policy

General Misconduct Procedures

Student Code of Conduct

Approved by Board of Directors on 20 June 2023