



ST PAUL'S COLLEGE  
WITHIN THE UNIVERSITY OF SYDNEY

## Sexual Misconduct Policy

### Intent of the policy

The College is committed to providing an environment of safety, respect, and inclusion for its students, staff, residents and visitors. This reflects the College's values of respect and dignity for all, regardless of gender, and is part of the College's determination to be leaders in fighting sexism, sexual harassment, and sexual assault.

All members of the College community have a role in ensuring a safe and respectful environment.

The College will take seriously any allegation of sexual harassment or sexual assault either by or against its students, staff, residents or visitors. For the purposes of this policy, '**sexual misconduct**' includes both **sexual harassment** and **sexual assault** (see definitions in Annex 1).

The College has a zero tolerance policy against sexual misconduct. Sexual misconduct is a breach of the College's *Code of Conduct*, and those found in breach will be subject to severe penalties which may include suspension or expulsion from the College. Perpetrators of sexual misconduct may also face criminal or civil penalties for unlawful conduct.

### Application of the policy

This policy applies to students, staff, residents and visitors of St Paul's College, and to any person who is subject to sexual misconduct by a student, former student, staff member, resident or visitor at St Paul's College. It covers incidents that occur on College grounds, and those that students, staff and residents of the College may commit or be subject to elsewhere.

This policy operates alongside other relevant policies of the College and of the University, including:

- The College's *Code of Conduct*
- The College's *Grievance Procedure*
- The University of Sydney's *Student Sexual Assault and Sexual Harassment Policy 2018*.

## **The role of alcohol and other drugs**

Students, staff, residents and visitors of the College are responsible for their own conduct at all times.

- (a) Being under the influence of alcohol or other drugs will not be viewed as a mitigating factor if a person is accused of sexual misconduct.
- (b) A person who is significantly intoxicated or affected by drugs is incapable of consenting to sexual activity.

## **Consent**

For the purposes of this policy, a person consents to a sexual act if they freely and voluntarily consent to the sexual act.

A person is not able to freely and voluntarily consent to a sexual act when:

- (a) they are:
  - (i) asleep or unconscious;
  - (ii) significantly intoxicated or affected by drugs;
  - (iii) intimidated, coerced or threatened, including when they are afraid of harm to themselves or someone else;
  - (iv) unclear about the identity of the person performing the act;
  - (v) tricked into doing something they do not want to do;
  - (vi) detained or held against their will; or
  - (vii) under 16 years of age; or
- (b) the person is pressured to engage in the sexual act by another person, who is in a position of power or authority over them.

Consent to a sexual act must be clear and obvious. The fact that a person does not say 'no' to, or does not physically resist, a sexual act does not of itself mean that they consent to it.

A person is free to withdraw their consent at any time prior to or during a sexual act, for any reason.

## **Advice and support**

1. The College encourages any person to seek support if they have been the subject of sexual misconduct and commits to providing

emotional and practical assistance where staff or Peer Support Leaders are made aware of sexual misconduct. This may include a person:

- a. Discussing the incident with members of College staff or Peer Support Leaders, who have received training in how to respond compassionately to disclosures of sexual misconduct
  - b. Receiving confidential advice on the options available for disclosure or formal complaint, counselling and medical assistance.
2. A person who has been subject to sexual misconduct may also wish to seek support from services such as:
- a. NSW Health Sexual Assault Services at the Royal Prince Alfred Hospital, contactable on 9515 9040 (Monday to Friday) or 9515 6111 (after hours)
  - b. NSW Rape Crisis on 1800 424 017, 24 hours a day
  - c. The National Sexual Assault, Domestic Family Violence Counselling Service on 1800 RESPECT (1800 737 732), 24 hours a day
  - d. The University of Sydney's free Counselling and Psychological Services Centre, contactable on 8627 8433 or 8627 8437.
3. Many instances of sexual misconduct are criminal offences. The College and its staff will support a person in coming to an informed decision about whether to make a disclosure or a complaint about an incident of sexual misconduct, and to which organisation such a disclosure or complaint might be made, including the College, the University, the Police, or another relevant body.

### **Reporting sexual misconduct**

Following an incident of sexual assault or sexual harassment, the College will support a person's decision regarding whether or not to further disclose the incident, and whether or not to make a complaint. No inferences will be drawn from a decision not to disclose the incident or to make a complaint.

A complaint or disclosure of sexual misconduct may be made to the College either:

- a. By any person regarding the conduct of a student, staff member, resident, visitor or other affiliate of the College, or
- b. By a student, staff member, resident or visitor of the College concerning any person.

A person who witnesses an incident of sexual misconduct may also make a report to the College.

Where a person makes a disclosure but not a complaint, the incident and any evidence provided is recorded, but no further action is taken. Disclosing an incident ensures that a record of the incident exists, should a person later decide to make a complaint. Where a person wishes to make a disclosure, it is best done as soon as possible after an incident.

Where a person wishes to have an incident investigated or a specific action to be taken, they should make a complaint. Depending on the circumstances, a person may make a complaint to the College, the University, the Police, or another relevant body. Complaints to the College will be recorded and will be investigated, which will include seeking relevant information about the incident and the individual/s concerned.

Disclosures, complaints or reports can be made:

- a) To the University online anytime via the University's 'Sexual Assault' web page, which includes an online portal, or by calling 1800 SYD HLP (1800 793 457) from 9am to 5pm, Monday to Friday. Those who prefer to make a disclosure or complaint in person can call 1800 SYD HLP (1800 793 457) to make an appointment. In the case of a disclosure, this can be done anonymously.
- b) To the College by contacting:
  - i) The Sub-Warden, Dr Mark Schembri
  - ii) The Dean of Graduate House, Dr Antone Martinho-Truswell
  - iii) The Associate Dean of Graduate House, Ms Katie Allan.A person may also contact the nominated first point of contact for University of Sydney colleges.

### **Confidentiality**

The confidentiality of all persons involved in an incident will be respected wherever possible. Disclosures or complaints of sexual misconduct will not be disclosed beyond the wishes of the complainant, except in those circumstances where the College reasonably believes it is obliged to notify the University, the Police or another body.

### **Investigating complaints of sexual assault or sexual harassment**

The College will investigate complaints of sexual misconduct against its students, staff members, residents, visitors or other

affiliates. When it does so, it will follow a procedure consistent with the College's *Code of Conduct*.

In considering the College's role in the investigation, factors the College may consider include evidence available; any admission of responsibility by the person against whom the complaint has been made; whether the complaint is already being investigated by the University, the Police, or another organisation; the limitations of the College's internal procedure in terms of obtaining and assessing evidence; the need to safeguard the rights of both parties; and any other relevant considerations.

Where he considers it necessary, the Warden may make requirements of a student, staff member or resident (such as relocation within or removal from the College) while the investigation of sexual misconduct is taking place.

Any such action by the Warden should not be interpreted as anticipating or revealing the outcome of any investigation process.

### **Opportunity to be heard**

Complaints of sexual assault and sexual harassment will be resolved sensitively, confidentially, expeditiously, and fairly while following the principles of procedural fairness.

Complainants and respondents will have the opportunity to state or respond to a complaint, and to provide any evidence relevant to the complaint.

Complainants and respondents may be accompanied to any meeting by a support person, if they wish.

At no time will the complainant and respondent be required to meet with or to participate in any activity with one other, unless they have both given their prior informed consent.

### **Active bystander intervention**

The College strongly encourages safe active bystander intervention by students, staff, residents and visitors of the College to prevent or stop sexual assault and sexual harassment from occurring or continuing.

### **Training**

Resident members of the College receive training on consent, sexual ethics, and how to intervene safely and responsibly as a bystander

in cases of sexual misconduct. Resident members of the College receive regular updates of this training.

Relevant staff members and student leaders such as Peer Support Leaders receive training in how to handle a disclosure of sexual misconduct compassionately.

### **Supporting someone you know who has been subject to sexual misconduct**

If someone you know has been subject to sexual misconduct, you can provide support by listening to them and letting them express how they feel; letting them know that any sexual misconduct to which they were subjected was not their fault; respecting their decisions about making a complaint or a disclosure; and directing them to support services.

### **No victimisation**

College students, staff, residents and visitors must not victimise or otherwise subject another person to detrimental action as a consequence of that person:

- (a) Making a disclosure or complaint of sexual misconduct
- (b) Providing information about a disclosure of sexual misconduct
- (c) Supporting a person who has made a disclosure of sexual misconduct
- (d) Engaging in safe bystander intervention.

### **Revisions to the policy**

This policy will be reviewed and revised from time to time, and the latest version (which shall be binding) posted on the College website.

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### **ANNEX 1: Definitions**

**Sexual misconduct** includes sexual assault and sexual harassment, as defined in this policy.

**Sexual assault** is used in this policy to cover a range of unacceptable sexual and physical behaviours, which are criminal offences.

(1) For the purposes of this policy, sexual assault means any sexual act that a person does not consent to, including:

(a) rape - a term commonly used in the community to describe the forced penetration of the vagina or anus of any person with any part of the body of another person (including their fingers), or with any object, without the first person's consent;

(b) unwanted oral sex - insertion of the penis into the mouth of another person, or use of the tongue or lips on the vagina, penis, scrotum or anus of another person, without their consent;

(c) indecent assault - kissing or touching a person's body in a sexual manner, without their consent. This includes unwanted touching of a person's breast, bottom or genitals;

(d) acts of indecency - doing an act of a sexual nature with or towards another person without their consent, or making another person do an unwanted act of a sexual nature. This includes:

- (i) a person showing another person their genitals ('flashing');
- (ii) a person sending another person an unwanted still or moving image of their own or someone else's genitals;
- (iii) making a person show another person their breasts, bottom or genitals;
- (iv) masturbating in front of another person;
- (v) pretending to masturbate in front of another person;

(e) voyeurism - for the purpose of obtaining sexual arousal or sexual gratification, deliberately observing a person who is:

- (i) in a state of undress;
- (ii) using the toilet, showering or bathing; or
- (iii) engaged in a sexual act;

without their consent; and

(f) recording or distributing an intimate image of another person without their consent, whether in person or by electronic, digital or other means, including a still or moving image of:

(i) a person's breast, bottom or genitals, whether bare or covered by underwear;

(ii) a person in a state of undress;

(iii) a person using the toilet, showering or bathing;

(iv) a person engaged in a sexual act.

(2) For the purposes of this policy, a person will be considered to have sexually assaulted another person if:

(a) the other person did not consent to the first person's actions; and

(b) the first person:

(i) knew that the other person did not consent;

(ii) was reckless as to whether the other person consented; or

(iii) should reasonably have known, having regard to all the circumstances, that the other person did not consent.

(3) For the purposes of this policy, threatening to engage in any of the above conduct may also constitute sexual assault.

### **Sexual harassment**

Sexual harassment occurs if a person, 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,

(a) makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or

(b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed.

Sexual harassment may include, amongst other things:

(a) unwelcome touching, hugging or kissing;

(b) inappropriate staring or leering;

(c) sexual gestures;

(d) sexually suggestive comments or jokes;

(e) displaying, sending or requesting sexually explicit pictures or posters;

(f) giving sexually explicit gifts;

- (g) making or distributing a sexually explicit audio recording or photo-shopped image of another person;
- (h) repeated or inappropriate invitations to go out or 'hook up';
- (i) intrusive questions about a person's private life or physical appearance;
- (j) requests or pressure for sexual intercourse, or other sexual acts.

Sexual harassment can occur through email, text, messaging, social media posts and other forms of electronic communication.

Acts of sexual harassment may also constitute sexual assault.