

ST PAUL'S COLLEGE
UNIVERSITY OF SYDNEY

**GUIDELINES FOR THE COLLEGE RESPONSE TO
ALLEGATIONS OF SEXUAL MISCONDUCT**

SPC-SSWP-012020



Guidelines for the College Response to Allegations of Sexual Misconduct

Version: 4

1. Purpose of these Guidelines

- a. These guidelines have been developed for use by all members of the St Paul's College (**The College**) Community. The purpose of the guidelines (**Guidelines**) is to guide the College in its support, referral, investigation and risk mitigation role when responding to an allegation of sexual misconduct that has a connection with the College's residents, staff, precincts, and/or activities conducted by or on behalf of the College (including where the activity is about to take place or has taken place).
- b. Allegations of sexual misconduct are complex, serious and sensitive matters that have far reaching implications for everyone involved. They require careful consideration from the College in regard to the appropriate steps to be taken. Each instance requires a tailored response, including consideration of any urgent time constraints.

2. Meaning of Sexual Misconduct, Sexual Assault and Consent

- a. **Sexual Misconduct** (under these guidelines) refers to all forms of sexual activity prohibited by law, including those mentioned in any relevant legislation. Sexual misconduct will include, but is not limited to all forms of rape, incest, child sexual abuse, sexual assault, sexual harassment, assault with the intent to commit a sexual offense, threat to commit sexual misconduct, and other sexual offences that do not involve touching.
- b. **Sexual Harassment** (under these guidelines) is an unwelcome advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a reasonable person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances.
- c. **Sexual Assault** (under these guidelines) is any behaviour of a sexual nature that makes someone feel uncomfortable, frightened, intimidated or threatened. It is sexual behaviour that someone has not agreed to, or to which that person is not capable of giving consent, where another person uses physical or emotional force against them.
- d. **Consent** (Under these guidelines) refers to consent as defined by criminal law. Consent is the voluntary agreement freely given by a person with the cognitive capacity to do so, to engage in the act or acts in question and to continue to engage in the act or acts. No consent is obtainable where the person is:
 - i. Physically forced or pressured into the act;
 - ii. Fearful of harm;
 - iii. Being held against their will;
 - iv. Under the age of 16;
 - v. Unconscious or asleep;



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- vi. Affected by drugs or alcohol that they are incapable of providing or withdrawing consent; and/or
- vii. Incapable of understanding the sexual nature of the act.
- e. Consent can be withdrawn at any time during the act(s) in question.

3. Meaning of Disclosure & Reporting

- a. **Disclosure** (under these guidelines) means telling someone so together you can make sure you've got the care and support you deserve.
- b. **Reporting** (under these guidelines) means making an official complaint in a documented process.

4. Application of these Guidelines

- a. The College is committed to responding to all disclosures and reports of sexual misconduct made to the College. These may arise through interactions between students, staff and students, staff members, or a student and a College associate or member of the public with some connection to the College.
- b. Reports / disclosures may be of recent or historical events and may necessitate differing responses from the College.
- c. If the reported sexual misconduct does not have the requisite connection to the College, it will not be possible for the College to take particular investigative action. However, information in these guidelines, including the support and services available, may still be of assistance to a person impacted by the offence.
- d. These guidelines are intended to ensure appropriate management and reporting allegations of sexual misconduct. The investigation and determination of sexual misconduct under the criminal justice system is beyond the College's capacity or jurisdiction. The College, through resources and services, will make appropriate referrals.

5. The Application of Safe Community

- a. The Vice Warden together with the Dean of Undergraduates, and Dean of Graduate House have the responsibility in their respective communities for the application of Safe Community within St Paul's College. They are the contact point for those within the St Paul's College community seeking support or other action as a result of any form of inappropriate behaviour including sexual misconduct. These guidelines relate to the management of sexual misconduct.
- b. The Safe Community objective in receiving and responding to a report of sexual misconduct is to:
 - i. Minimise further trauma or distress for the parties involved;



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- ii. Provide or facilitate support and assistance to the parties involved; from both College and external resources (e.g. the University) and external agencies (e.g. Police)
- iii. Determine and manage ongoing or foreseeable risk to the College Community. This includes staff and students regardless of whether they are the complainant, alleged perpetrator, witness, other person impacted by an allegation of sexual misconduct or the College community at large;
- iv. Look at any preventative action that can be taken to lessen the risk of occurrence of a similar sexual misconduct; and
- v. Where the complainant consents, referral of the matter to the appropriate area within the University for investigation of a possible breach of the University's regulations, policies, procedures and/or codes of conduct. Where the alleged perpetrator is a student, the referral will be to the Student Affairs Unit; where the alleged perpetrator is a staff member, the referral will be to the Office of the Warden.

6. Interactions with College regulations, policies and procedures

- a. These guidelines should be read in conjunction with and subject to;
 - i. St Paul's College Code of Conduct
 - ii. St Paul's College Grievance Procedure
 - iii. St Paul's College Handbook (Community Guide/s)
 - iv. The University of Sydney's Student Sexual Assault and Sexual Harassment Policy 2018.
 - v. Any other policies, procedures and guidelines of the College where relevant and applicable.

7. Interactions with professional standards and mandatory reporting obligations

- a. These guidelines do not supersede or take precedence over:
 - i. Professional standards regarding confidentiality between clients and medical practitioners, nurses and psychologists; or
 - ii. Mandatory reporting requirements prescribed by child safety legislation or criminal laws; or
 - iii. Legal obligations applicable to the College and the ability of the College to take appropriate action in managing risks that impact the College regarding sexual misconduct; or
 - iv. Any criminal investigation.

8. Principles of the Response Guidelines

- a. **St Paul's College responses to sexual misconduct are framed by the following overarching principles:**



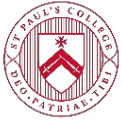
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- i. All persons receiving either a disclosure or report will focus on the safety, physical and psychological needs of the involved parties.
- ii. The complainant's right to privacy and confidentiality will be respected at all times unless disclosure is required by another law.
- iii. Comprehensive information about all processes and options will be offered in a way which is non-judgmental, appropriate, clear and sensitive in terms of language, culture, age, disability, gender, sexuality and location.
- iv. Informed decision will be respected at every stage of the process.
- v. Sense of personal control will be supported and encouraged.
- vi. All areas of The College will work collaboratively to respond to allegations of sexual misconduct, to provide clear, up to date and comprehensive information about other agencies and services and will facilitate access to appropriate services on request, including the provision of the St Paul's College Reporting and Disclosure postcard.
- vii. The College will ensure documentation and records are prepared in accordance with respective requirements and respect confidentiality, privacy, security and choice.

b. Fundamental Principles of Justice

- i. **Fair and Dignified Treatment:** The involved parties must be treated fairly and shown dignity, respect, compassion and courtesy. The College must take in to account and be responsive to the particular needs relating to age, sex, race, cultural identity, impairment, sexuality or religion.
- ii. **Privacy of the Complainant:** A person's personal information, including their address and phone number, can only be disclosed with consent or as authorised by the law.
- iii. **Information about services:** The involved parties must be given timely information about relevant services available to them, including welfare, health, counselling, legal help and financial assistance.
- iv. **Information about investigation of the alleged perpetrator:** If the complainant asks, they should be given information about the investigation of the alleged perpetrator where possible. Information given may include progress of the investigation.
- v. **Minimal exposure to and contact with the alleged perpetrator:** As much as possible, the College are to ensure the complainant has minimal contact with or exposure to the alleged perpetrator during the period of investigation.



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- c. If a complainant or alleged perpetrator feels they have been treated unfairly or without respect by a St Paul's College member, they have the right to complain to the Warden or the College Council in line with the College' Grievance Policy.

9. Guiding Principles

a. The College will treat the complainant according to the additional following principles:

- i. To be treated with respect and dignity regardless of gender, cultural background, age, sexual orientation, income, physical and cognitive abilities, sexual, medical or mental health, or conduct history.
- ii. To provide assistance to minimise trauma or distress arising from the reported incident, promote recovery and empowerment.
- iii. To be accompanied by a support person, should they wish to, while receiving support services or during any conversation.
- iv. To be protected (as far as reasonably practicable in the circumstances) from offence, trauma, intimidation or any other risks to wellbeing that may arise as a result of the person making an allegation of sexual misconduct under these Guidelines.
- v. To be informed of their options concerning reporting; and the services and support available to them, such as counselling.
- vi. To respect the choice made by an adult complainant to report or not to report an allegation of sexual misconduct to Police.
- vii. To respect the choice made by an adult complainant to request the College either to investigate an alleged act of sexual misconduct, or take no action. The College will, to the extent possible, respect the choice of the individual, however this must be balanced against the obligation of the College to protect the wellbeing and safety of the College Community and for it to comply with its legal obligations. The College will supersede this decision should it determine that the immediate safety and wellbeing of either the complainant or alleged perpetrator is at risk (e.g. suicide or medical emergency).

b. When an alleged perpetrator of a sexual offence is a College resident or staff member, the College will treat the person in accordance with the following principles:

- i. To be treated with respect regardless of gender, cultural background, age, sexual orientation, income, physical and



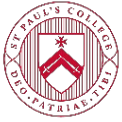
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- cognitive abilities, sexual, medical or mental health, or conduct history.
- ii. To be provided assistance to minimise trauma or distress arising from the reported allegation.
 - iii. To be afforded an investigation and determination of allegation of sexual misconduct in accordance with College regulations, policies and procedures. The ability of the College to investigate and manage allegations may however be impacted by external or criminal investigations.
 - iv. Where the sexual misconduct is being investigated by the Police, determined by the criminal justice system, or by the University, the alleged perpetrator will be given access to the College and its services with or without necessary or appropriate conditions as determined by the Dean or Vice Warden.
 - v. To be given access to support services.
- c. These principles do not restrict the College to take other action. This may include but is not limited to the removal of a person from College owned or occupied land or other property to protect the safety, security and wellbeing of any person or to prevent misconduct or criminal conduct.

10. Reporting matters to the Police and impact on general misconduct matters

- a. The College will respect a complainant's decision NOT to make a report to the police or the University. However, the College will:
 - i. Consider advising the Police and/or The University of non-identifiable information if the College has information that indicates non-reporting to the Police and/or The University may place members of the College and/or University or general community at serious or imminent risk. Wherever possible the College will refrain from providing personal information of the complainant.
 - ii. Make a report to Police or other regulatory body when mandatory reporting is required.
- b. The College may assist the complainant to report the incident to the Police, however the College cannot make a report on behalf of the complainant other than as detailed above in 10(a).
- c. The College cannot determine whether a criminal act has been committed. However the College may seek, on a balance of probabilities, to investigate if a student has engaged in an act of misconduct under the College regulations.
- d. If the College determines there has been an act of general misconduct, penalties may be applied in accordance with College regulations, policies, and associated procedures.



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- e. Any action or investigation by the College into reports of general misconduct will be conducted in a way that avoids, to the extent possible, interference or perceived interference with current, pending or future Police investigations and/or court proceedings. The College may, at its discretion, determine that its investigation of these matters should be suspended until the conclusion of external processes, such as a police investigation or court proceeding.

11. College response to disclosures and reports of Sexual Misconduct

- a. Upon receiving a disclosure and/or report of Sexual Misconduct, the College will apply the *Grievance Procedure* as relevant to the disclosure or report made.
- b. Application of the *Grievance Procedure* will be carried out in line with all principles outlined in this policy.

12. Consideration of Mandatory and other Reporting

- a. In all cases where a child (persons under the age of 18) is involved, the College will adhere to the mandatory reporting obligations as per state and federal law.

13. Protection from reprisals, retaliation or threats

- a. The College will not tolerate conduct by a person which retaliates, engages in reprisals or threatens to retaliate against a person for:
 - i. Filing a complaint with the Police
 - ii. Making an allegation of an act of sexual misconduct;
 - iii. Participating or cooperating in an investigation under these Guidelines; or
 - iv. Being associated with someone who pursued rights under these Guidelines.
- b. Anyone engaged in such conduct may be subject to sanctions and/or discipline in accordance with requirements of the law, College regulations, policies and procedures.

14. False, vexatious or frivolous allegations

- a. Any person who knowingly makes a false, vexatious, or frivolous allegation in connection with an allegation of sexual misconduct may be subject to disciplinary action in accordance with the requirements of the law, College regulations, policies and procedures.
- b. A false allegation includes statements that deliberately omit a material fact, as well as statements that the speaker/writer knows to be untrue.



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- c. Vexatious allegations that are without merit and intended to cause inconvenience, annoyance, harassment or financial cost to the person who is the subject of the allegations.
- d. Frivolous allegations are allegations that have no serious purpose or value, and investigation would be out of proportion to the seriousness of the issues complained about.

15. Anonymous reports or "complaints"

- a. For the purposes of this section anonymous means:
 - i. The complainant is not known/identifiable; but
 - ii. The identity of an alleged perpetrator is known.
- b. Anonymous report or complaints referred to The College will be dealt with as follows:
 - i. If the allegation is against a staff member, the College will refer the matter to the Warden.
 - ii. The allegation will be cross-referenced with other information to determine whether the report may be related to other matters already known to the College.
 - iii. The College will consider what, if any, reasonable action is able to be taken to protect the wellbeing or safety of the College Community, including the alleged perpetrator.
 - iv. After making reasonable enquiries, the Warden will consult with the College Council, and where necessary, refer the report to the police.

16. Confidentiality

- a. For all matters handled under these guidelines, the College will consider and respect the privacy of the persons concerned (as far as legally possible). Any use or disclosure of information gathered by the College in the process of reporting, investigation, and determining an allegation of sexual misconduct will be on a 'need to know' basis, in compliance with the College's privacy obligations and will be kept confidential to the extent possible.

17. Documentation

- a. Each of the steps taken under the Guidelines will be documented and securely stored as part of the College records.



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Implemented:

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Sexual Assault and Sexual Harassment Prevention and Response Procedure, The Australian National University Respectful Relationships Unit, The St Paul's College Sexual Misconduct Policy 2019 and the Queensland Government Interagency Guidelines for Responding to People who have Experienced Sexual Assault.



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APPENDIX 1: St Paul's College Disclosure and Reporting Postcard

SIDE A

St Paul's College Disclosure and Reporting Options For Sexual Assault and Sexual Harassment (SASH)

At St Paul's a Survivor **will be believed** and is in charge of what happens next. Your name **will not be revealed** without your consent, unless you are in immediate danger. The process is **confidential** and if you are an international student it **will not impact** your visa.

Disclosure means telling someone so together you can make sure you've got the care and support you deserve.

Reporting means making an official complaint in a documented process.

YOUR DISCLOSURE & REPORTING OPTIONS

Within St Paul's:

- You can disclose directly to the Warden, Vice Warden, Dean of Undergraduates, Senior Tutor, or Dean of Graduate House, or Associate Dean of Graduate House; or to another member of the St Paul's Leadership Team, or seek information about how to report.
- You can disclose to a Peer Support Leader or Junior Dean who will discuss safety, support you and provide information about your options. The PSL or JD must tell either the Dean of Undergraduates or the Dean of Graduate House, but they don't need to share your name.
- The Dean will submit a disclosure through the Sexual Misconduct Reporting Tool. Your name does not need to be shared in this disclosure.

Within in the InterCol Community:

- You can disclose directly to another member of a College's leadership team, or seek information about how to report. They can support you through the process or can help you to find the people you need at your College.

Within the University of Sydney:

- You can call the confidential help line 1800 SYD HLP (1800 793 457) from 9am to 5pm, Monday to Friday.
- Make a disclosure or report through the online USYD form.
- Arrange an appointment with a Safer Communities Student Liaison Officer.
- Email:
 - o Disclosures – safer-communities.officer@sydney.edu.au
 - o Report – studentaffairs@sydney.edu.au
- Get more information on your options from the Health, Wellbeing and Support Services section of the USYD Website

With the NSW Police, you can:

- Make a police statement at any time. Police are trained to support you through this process.
- Make an informal statement at any time, which does not lead to a police investigation but may be used for police intelligence purposes. This does not stop you from making a formal report in the future.



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SIDE B

RESOURCES

WHO CAN I CALL AND WHERE CAN I GO?

USYD Safer Communities

Safer-communities.officer@sydney.edu.au; sydney.edu.au/students/sexual-assault/support

USYD Student Affairs Unit

(02) 8627 5559; sydney.edu.au/students/contact-student-affairs

USYD Counselling and Psychological Services

(02) 8627 8433 (9:00am – 5:00pm, weekdays)

1800 SYD HLP

1800 793 457; 9am to 5pm

USYD Mental Wellbeing Support Line

Call: 1300 474 065; Text: 0488 884 429

NSW Sexual Violence Helpline

1800 424 017

Service Assisting Male Survivors of Sexual Assault (SAMSSA)

(02) 6247 2525 (7 days, 7am-11pm)

1800 RESPECT

1800 737 732 (24 Hours)

NSW Police

000 (Emergency) or 131 444 (non-urgent police assistance)

WHERE CAN I GET MEDICAL HELP?

USYD Health Service

02 9351 3484

Royal Prince Alfred Hospital Sexual Assault Service

02 9515 9040 (Monday to Friday)

02 9515 6111 (After Hours)

NSW Government Health Website – to find your closest sexual health service.

<https://www.health.nsw.gov.au/sexualhealth/Pages/sexual-health-clinics.aspx>



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APPENDIX 2: St Paul's College Investigation Report

INVESTIGATION REPORT

Date of Report:	
Present:	
Type of Case:	
Complaint Summary:	
INCIDENT ID per Incident Register:	
NOTES from discussion:	
Welfare Concerns:	
-	
-	
Action Taken:	
Signed:	Date: