ST JOHN'S COLLEGE
within the University of Sydney

POLICY REGISTER
SJC STUDENT SEXUAL MISCONDUCT AND SEXUAL HARASSMENT POLICY – last updated 27 August 2024

SJC STUDENT SEXUAL MISCONDUCT AND SEXUAL HARASSMENT POLICY

PART 1 - PRELIMINARY

1 Name and commencement

(1) This is the St John's College Student Sexual Misconduct and Sexual Harassment Policy.

(2) This policy commences on 1 February 2019.

2 Policy is binding

Except to the extent that a contrary intention is expressed, this policy binds the College, students, staff members, associates and visitors.

3 Statement of intent

(1) St John's College acknowledges that it has a responsibility to provide a safe and respectful environment for its students and staff, and others who may be present on the College property. All members of the College community, including individual students, the Student Club, staff members, and the College Council, have a role to play in creating a safe and respectful environment. All need to acknowledge their specific responsibilities in this area.

(2) St John's College is committed to providing a safe, inclusive, and respectful environment for all members of its community, and to responding to sexual misconduct in a trauma-informed and procedurally fair way.

(3) This policy:

(a) prohibits sexual misconduct and sexual harassment by members of the College community;

(b) protects the safety and welfare of students disclosing or complaining about sexual misconduct or sexual harassment;

(c) sets out the meaning of sexual misconduct and sexual harassment;

(d) explains the difference between disclosures and complaints of sexual misconduct and sexual harassment;

(e) explains the difference between complaints to the College and reports to the NSW Police;

(f) encourages safe active bystander intervention;

(g) sets out the principles applicable to disclosures and complaints of sexual misconduct and sexual harassment; and

(h) supports the College's values of inclusion and diversity, and respect and integrity; and

(i) supports measures taken by the University and College to eliminate workplace sexual harassment, unlawful sex discrimination and harassment, and victimization.

4 Application

(1) This policy applies to disclosures by students and former students of sexual misconduct and sexual harassment, including:

(a) anonymous disclosures;

(b) disclosures about recent or historical events; and

(c) disclosures about College related and non-College related conduct.

(2) This policy applies to complaints by students and former students of College related sexual misconduct and sexual harassment including, but not limited to, conduct by:

(a) current and former students; and

(b) current and former staff members or associates.

Note: For an explanation of the difference between disclosures and complaints of sexual misconduct and sexual harassment, see clauses 12 and 13.

Note: Current and former staff and affiliates who wish to make a complaint of sexual misconduct or sexual harassment should refer to the *St John's College Student Complaints Procedure*

(3) For the avoidance of doubt, the rights and obligations of students under this policy are in addition to the rights and obligations set out in the *SJC Student Code of Conduct* and the *General Regulation*.

5 Interpretation

In this policy:

active bystander intervention	means seeing and recognising a potentially harmful situation and choosing to respond in a safe way that could prevent or stop the harm from happening or continuing.
associate	means consultants and contractors to the College; tutors; members of College Council and committees; and any other persons appointed or engaged by the College to perform duties or functions on its behalf.
Apprehended Violence Order	means an ADVO (Apprehended Domestic Violence Order) or an APVO (Apprehended Personal Violence Order) made by a court.
Bystander	means a person who directly sees, hears, and recognises a potentially harmful situation.
College land	means any land occupied or used in connection with the College, including the whole or any part of any building or structure on College land.

College-related conduct

means any conduct that is connected to the College, including conduct that:

- refers or relates to the College, its activities, or its staff, associates or students in their status as staff, associates or students of the College;
- occurs on, or in connection with, College land or other property owned by the College;
- occurs at, or in connection with, another Residential College;
- occurs at or in connection with university owned or affiliated student accommodation;
- occurs using, or is facilitated by, College ICT resources or other College equipment;
- occurs during, or relates to, the performance of duties for the College;
- occurs during, or in connection to, any College related function or event (whether sanctioned or organised by the College or not) or when representing the College in any capacity;
- occurs during any event run by or affiliated with the St John's College Student Club or other College organisations, clubs or societies (whether sanctioned or organised by the College or not);
- occurs during, or in connection to, students' clinical, practicum, internship or work experience placements; or
- occurs while a St John's College student is participating in an overseas exchange, study abroad, or other approved program.

complainant

means a student or former student who makes a complaint of sexual misconduct or sexual harassment in accordance with this policy and the *St John's College Student Complaints Procedure*.

complaint

means:

- a complaint of sexual misconduct or sexual harassment by a student or former student who wants the incident to be investigated or wants specific action to be taken in response to the incident, made in accordance with clause 13; and
- a disclosure by any person of College related sexual misconduct or sexual harassment by a current student.

Dean

includes Dean of Students.

Disciplinary Code

means the provisions relating to communications with College authorities, warnings, investigations, interim directions and disciplinary procedures in the General Regulation.

disclosure

means:

- a disclosure of sexual misconduct or sexual harassment by a student or former student who does not want the College to investigate or to take any specific action in response to the incident, made in accordance with clause 12; and
- a disclosure by any person of College related sexual misconduct or sexual harassment by a current student.

fraternisation	has the meaning given in Clause 24, and applies only to that clause.
Pastoral Team	means Senior Resident Assistants, Resident Assistants and Corridor Representatives.
Rector	The Rector may direct that a person shall exercise the functions of the Rector under this Policy, either generally or for a period of time or in relation to a particular matter, in which case the expression ***Rector*** in this Policy shall be taken to refer to any such person so directed by the Rector.
Residential College	means one or more of: • Mandelbaum House; • Sancta Sophia College; • St Andrew's College; • St John's College; • St Paul's College; • Wesley College; • The Women's College.
Respondent	means a person whose conduct is the subject of a complaint of sexual misconduct or sexual harassment.
sexual activity	means any activity that a reasonable person, having regard to all the circumstances, would consider to be sexual.
staff or staff member	means an employee of the College, including a casual employee.
Staff Complaints Officer	means a Staff Complaints Officer under the *SJC Staff Complaints Procedure*
student	includes: (a) a person who has been admitted as either a resident student of the College or an affiliate (non-resident) student of the College, for the duration of such admission; and (b) any other person resident in the College.
Transactional sex	has the meaning given in Clause 24 and applies only to that clause
visitor	means any guest, invitee or visitor to College land or to a function or event authorised or organised by the College.

6 Exercise of functions

The Rector may delegate his or her functions to an appropriate member of College staff under this Policy , either generally or for a period of time or in relation to a particular matter, in which case the term ***Rector*** in this Policy shall be taken to refer to that person.

PART 2 – PROHIBITED CONDUCT

7 Sexual misconduct and sexual harassment are prohibited

(1) Students, staff, associates and visitors must not engage in sexual misconduct towards or sexually harass any other person.

(2) Behaviour that is intimidating, abusive, disrespectful or threatening, including sexual misconduct and sexual harassment, is not acceptable and will not be tolerated.

8 Emergency and ongoing assistance and support

(1) Students who have experienced sexual misconduct or sexual harassment are encouraged to seek assistance and support from a member of the Pastoral Team.

(2) Contact details for emergency assistance for students who have experienced sexual misconduct or sexual harassment are set out in Schedule 1.

(3) Contact details for ongoing support and assistance for students and former students who have experienced sexual misconduct or sexual harassment are set out in **Schedule 2**.

(4) Contact details for support and assistance for students who are accused of sexual misconduct or sexual harassment are set out in **Schedule 3**.

(5) Students and staff can support a student who has experienced sexual misconduct or sexual harassment by:

- listening without interrupting;
- letting them express how they feel and respecting the words they use in reference to the incident;
- letting the student know they believe what the student is telling them and acknowledging the student's distress;
- letting the student know that the incident was not their fault;
- respecting their decisions;
- directing them to the available support services.

Note: When a student has experienced sexual misconduct or sexual harassment, they may express a range of emotional and physical symptoms. The NSW Rape Crisis Service website provides information on common impacts of sexual misconduct.

9 Meaning of sexual misconduct

(1) The term sexual misconduct is used in this policy to cover a range of unacceptable sexual and physical behaviours, which are in breach of clauses 7 and 24.

Note: Sexual misconduct can be experienced by people of all ages, genders and sexualities, within or outside a relationship. Sexual misconduct is an abuse of power, and is never the fault of the person who does not consent to the sexual activity.

(2) For the purposes of this policy, sexual misconduct means a breach of clause 24 or any sexual act that a person does not consent to, including:

(a) **rape (also called sexual assault)** – the penetration to any extent of the genital or anus of any person by any part of another person (including their fingers), or with any object manipulated by another person, without the first person's consent;

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

(c) **sexual touching** – kissing or touching another person's body without their consent, in circumstances where a reasonable person would consider the touching to be sexual. This includes unwanted touching of a person's breast, bottom, or genitals;

(d) **sexual acts** – doing an act with or towards another person without their consent, or making another person do an unwanted act, in circumstances where a reasonable person would consider the act to be sexual. 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; and
  (v) pretending to masturbate in front of another person;

(e) **voyeurism** – for the purpose of obtaining sexual arousal or sexual gratification, 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.

(3) For the purposes of this policy, a person will be considered to have engaged in sexual misconduct if:
  (a) The other person did not consent to the sexual activity; 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) any belief that the first person had, or may have had, that the other person consented to the sexual activity was not reasonable in the circumstances.

(4) Without limiting paragraph (9)(3)(b)(iii), a belief that the other person consented to sexual activity is not reasonable if the first person did not, within a reasonable time before or at the time of the sexual activity, say or do anything to find out whether the other person consented to the sexual activity.

(5) For the purposes of this policy, attempting or threatening to engage in any of the above conduct may also constitute sexual misconduct.

Note: Stalking or intimidating another person with the intention of causing them to fear physical or mental harm is also a criminal offence (see the *Crimes (Domestic and Personal Violence) Act 2007*) and is prohibited under the *SJC Student Code of Conduct* Part 4.

10 Meaning of consent

(1) Consensual sexual activity involves ongoing and mutual communication, decision-making, and free and voluntary agreement between the people participating in the sexual activity.

(2) For the purposes of this policy, a person consents to a sexual activity if, at the time of the sexual activity, they freely and voluntarily agree to the sexual activity.

(3) For the purposes of this policy, a person does not consent to a sexual activity if:

  (a) they do not say or do anything to communicate consent;

  (b) they do not have the capacity to consent;

  (c) they are:

    (i) asleep or unconscious;

    (ii) so affected by alcohol or another drug as to be incapable of consenting;

(iii) forced, intimidated, coerced, blackmailed, or threatened, including when they are afraid of harm to themselves or someone else;

(iv) overborne by the abuse of a relationship or authority, trust, or dependence;

(v) mistaken about the identity of the other person;

(vi) mistaken about the nature of the sexual activity;

(vii) tricked into doing something they do not want to do;

(viii) detained or held against their will;

(ix) under 16 years of age; or

(x) under 18 years of age and the other person is a staff member.

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(4) A person may, by their words or conduct, withdraw their consent at any time prior to or during a sexual activity, for any reason.

(5) Sexual activity that occurs after consent has been withdrawn occurs without consent.

(6) The fact that a person does not say 'no' to, or does not physically resist, a sexual activity does not of itself mean that they consent to it.

(7) A person who consents to a particular sexual activity is not, by reason only of that fact, taken to consent to any other sexual activity.

Note: A person who consents to a sexual activity using a condom is not, by reason only of that fact, taken to consent to a sexual activity without using a condom.

(8) A person who consents to a sexual activity with a person on one occasion is not, by reason only of that fact, taken to consent to a sexual activity with:

(a) that person on another occasion; or

(b) another person on another occasion.

11 Meaning of sexual harassment

(1) Sexual harassment occurs if a person:

(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;

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.

Note: See also Clause 12 of the University *Bullying, Harassment, and Discrimination Prevention Policy*.

(2) Sexual harassment includes:

(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; and

(j) requests or pressure for sexual intercourse, or other sexual activities.

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

(4) Acts of sexual harassment may also constitute sexual misconduct.

PART 3 - DISCLOSURES

12 Disclosures of sexual misconduct and sexual harassment

(1) Students and former students who have experienced sexual misconduct or sexual harassment have a right to decide whether they want to disclose the incident to the College, or not.

(2) The College is committed to supporting students and former students who disclose sexual misconduct or sexual harassment. Details of inclusive and non-discriminatory support services for students are set out in **Schedule 2**

(3) A student or former student can make a disclosure to the College of any incident of sexual misconduct or sexual harassment by contacting the Rector, Dean or any member of the Pastoral Team.

Note: A bystander may make a disclosure but not a complaint of sexual misconduct or sexual harassment that they have witnessed. Where possible, the bystander should seek consent from the student who experienced the conduct to make the disclosure.

(4) Students and former students may elect to make disclosures anonymously.

(5) A member of the Pastoral Team may assist a student or former student to make a disclosure.

(6) Students and former students should make a disclosure (rather than a complaint) of sexual misconduct or sexual harassment if they do not want an investigation to be conducted or otherwise want any specific action taken in response to the incident.

(7) Students and former students who choose to make a disclosure of sexual misconduct or sexual harassment may later decide to make a complaint to the College about the same incident. The College will provide guidance about how to make a complaint.

(8) Subject to Clause 19, the College will treat all disclosures confidentially, and:

(a) will not refer the disclosure for investigation or release information about a disclosure unless:

(i) there appears to be an imminent risk to the health or safety of the student or another person or persons;

(ii) one or more other people name the same perpetrator in a separate incident disclosure and the College is concerned that there may be a risk to the health or safety of other persons;

(iii) the disclosure names a perpetrator who is employed by a Residential College, a student accommodation provider, a placement provider or a student representative organization, student club or student society, and the College is concerned that there may be a risk to the health or safety of other persons; or

(iv) the disclosure is made by a bystander and an investigation can be conducted appropriately without involving the affected student or students; and

(b) will inform the student before commencing an investigation into a disclosure.

(9) Upon receiving a disclosure relating to sexual misconduct or sexual harassment, the Rector or the Rector's representative will

(a) Record the following details:

(i) the disclosing individual's name and contact details;

(ii) the names of affected College students, including any bystanders or witnesses;

(iii) a brief summary of the issues raised in the disclosure, including details of any prospective respondent;

(iv) the identity and details of any persons named in the disclosure;

(v) any outcome or remedy sought by the disclosing individual; and

(b) refer the disclosure to the University for investigation in accordance with the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023*.

(10) If the College needs to investigate a disclosure, the Rector or the Rector's representative may contact the person who made the disclosure to ask whether they would be prepared to make a complaint or to participate in an investigation process.

(11) The College will otherwise use information contained in disclosures on a de- identified basis to identify trends and to develop targeted responses to sexual misconduct and sexual harassment in the College community.

PART 4 - COMPLAINTS

13 Complaints of sexual misconduct and sexual harassment

(1) A student or former student who has experienced sexual misconduct or sexual harassment has a right to decide whether they want to make a complaint to the College, or not.

(2) A student or former student who has experienced sexual misconduct or sexual harassment can make a complaint to the College by contacting the Rector or the Rector's Representative.

(3) A member of the Pastoral Team may assist a student or former student to make a complaint.

(4) A person cannot make a complaint of sexual misconduct or sexual harassment on behalf of a student or former student.

(5) Students and former students who have experienced sexual misconduct or sexual harassment should make a complaint (rather than a disclosure) if:

(a) they want an investigation to be carried or other specific action to be taken; and

(b) the complaint is about College-related conduct, including conduct by:

(i) other students; or

(ii) current staff members or associates.

(6) Students and former students do not have to specify what action they want the College to take in order to make a complaint. When referring complaints to the University of Sydney in accordance with Clause (13)(11), the College will prioritise their wellbeing and needs, but will otherwise decide what action ought to be taken following the completion of the University of Sydney's investigation and recommendation process.

(7) A former student who has experienced sexual misconduct or sexual harassment can make a complaint if:

(a) the complaint is about College related conduct; and

(b) the respondent is a current student, staff member or associate of the College.

(8) The College is committed to supporting students and former students who complain about sexual misconduct or sexual harassment. Details of inclusive and non- discriminatory support services for students are set out in **Schedule 2**.

(9) In most circumstances, a student or former student wishing to make a complaint of sexual misconduct or sexual harassment will need to provide their name. The College will not act on anonymous complaints of sexual misconduct or sexual harassment unless:

(a) it is not necessary for the respondent to be aware of the identity of the complainant in order to properly respond to the complaint; or

(b) there is independent documentary or other evidence supporting the complaint and the allegation can be tested fairly.

(10) The College is unable to act on complaints from complainants who decline to provide information about the respondent. In such cases, the complaint will be treated as a disclosure.

(11) Upon receiving a complaint about sexual misconduct or sexual harassment, the College will:

(a) Handle complaints made by students and former students of sexual misconduct and sexual harassment in accordance with the *St John's College Student Complaints Procedure*;

(b) refer the complaint to the University of Sydney for investigation in accordance with the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023*; and

(c) inform the complainant before commencing action in accordance with the relevant procedures.

(12) If a student or former student makes a complaint of sexual misconduct or sexual harassment by a visitor or other person over whom the College has no jurisdiction, the College may seek assistance from another organisation or to refer the complaint to an external agency for resolution.

(13) A student or former student who has made a complaint of sexual misconduct or sexual harassment is free to withdraw it at any time. However, if the University or College has already commenced misconduct proceedings against a student, staff member or associate as a result of the complaint, those proceedings will be completed.

(14) Complainants are required to engage with the complaints process, and to provide sufficient details of their complaint to permit the College to conduct a preliminary Assessment and investigation, as appropriate.

Note: Complainants are not required to put their complaint in writing in the first instance. However, a written complaint will be required if an investigation is needed.

14 Principles of complaint resolution

In accordance with the University of Sydney's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023*:

(1) Complaints of sexual misconduct and sexual harassment will be resolved sensitively, fairly, confidentially and with a minimum of disruption, while following the principles of procedural fairness.

(2) Complainants and respondents will have a reasonable opportunity to state or respond to a complaint orally and in writing, and to provide any documents relevant to the complaint.

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

(4) 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.

15 Preliminary Assessment of a complaint

(1) Upon receiving a complaint of sexual misconduct or sexual harassment, the Rector or the Rector's representative will conduct a preliminary Assessment.

Note: For details of the process that will be undertaken, see the *SJC Student Complaints Procedure.*

Note: Where the complaint relates to the conduct of a staff member or associate, the *SJC Staff Complaints Procedure* will also apply..

(2) The Rector or the Rector's representative will consult with the complainant during the preliminary Assessment process and subsequently refer the complaint to the University of Sydney for investigation in accordance with the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023*.

(3) Sexual misconduct and most sexual harassment by students will constitute student misconduct.

(4) Upon completion of an investigation by the University of Sydney under the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023*, the Rector may consult with the complainant before referring a complaint for action under the Disciplinary Code, and will inform the complainant if the complaint is so referred.

(5) If a complaint about a student is not referred for action under the Disciplinary Code:

(a) the College will be unable to take disciplinary action against the respondent; and

(b) the Rector will determine, in consultation with the complainant, whether the complaint is appropriate for investigation or Assisted Resolution.

16 Investigation of a complaint

(1) In the first instance, complaints about sexual misconduct and sexual harassment will be referred to the University of Sydney for investigation in accordance with the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023*.

(2) The University of Sydney may elect to decline to investigate a complaint of sexual misconduct or sexual harassment in circumstances where the substantive facts relating to the complaint render an investigation under the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023* inapplicable.

(3) If, under Clause 16(2), the University of Sydney elects not to investigate a complaint of sexual misconduct or sexual harassment, the complaint will be investigated in accordance with the *SJC Student Complaints Procedure*.

(4) If an investigator recommends that a complaint about a student be the subject of action under the Disciplinary Code, the Rector may inform the complainant before disciplinary action is taken.

(5) Alleged misconduct by staff members or associates may be investigated in accordance with procedures in the *Staff Disciplinary Procedure*.

17 Interim directions

In addition to those interim measures which may be implemented by the University of Sydney under the University's *Student Sexual Misconduct Policy 2023*:

(1) The Rector may issue an interim direction to a student in response to:

(a) a complaint of sexual misconduct or sexual harassment against the student, pending:

(i) resolution of the complaint;

(ii) investigation of the complaint;

(iii) the conclusion of any internal disciplinary proceeding; or

(iv) criminal investigation and hearing; or

(b) an Apprehended Violence Order, whether interim or final.

(2) An interim direction may be issued:

(a) to minimise the possibility of harm to any person; and/or

(b) to protect the integrity of an investigation or disciplinary proceeding.

(3) An interim direction:

(a) is not a penalty, and

(b) should not be interpreted as anticipating or disclosing any finding or outcome of an investigation or disciplinary proceeding.

(4) An interim direction must be for a defined period and may, according to its terms:

(a) prohibit the student from entering the College's buildings and grounds or specified parts thereof;

(b) prohibit the student from contacting, communicating with or approaching another student, or attempting to do so;

(c) prohibit the student's attendance at or participation in specified events or activities, including Student Club events and activities;

(d) restrict the student's access to specified College buildings, facilities or accommodation.

(5) An interim direction may be issued summarily, and the Rector:

(a) is not required to provide a hearing to the student before making a decision; and

(b) may inform himself or herself in relation to any matter in any manner that he or she thinks fit.

(6) The Rector will provide a written notice to the student within 24 hours of issuing an interim direction specifying the terms and duration of the direction.

(7) The Rector may at any time vary the terms of an interim direction, extend its duration, or terminate the direction, and in such case shall give written notice to the student to whom the direction has been issued.

(8) Nothing in this policy affects the power of the Rector to issue an interim direction to a resident under the Disciplinary Code.

18 Outcome of a complaint

(1) The outcome of a complaint of sexual misconduct or sexual harassment will be determined by the findings of any investigation, the seriousness of the complaint and the wishes of the complainant.

(2) For complaints that result in misconduct proceedings:

(a) the Disciplinary Code set out the process for establishing penalties for, and appeal rights from, findings of misconduct against a student.

(b) the *Staff Disciplinary Procedure* sets out the process for establishing penalties for, and appeal rights from, findings of misconduct against a staff member or affiliate

(3) The Rector or Rector's representative will inform complainants of the outcome of misconduct proceedings against students, staff members or affiliates, on a confidential basis. Where possible, this information will be delivered in person, to allow the complainant to ask questions and seek clarification about the effect of the outcome.

(4) If the complainant does not provide sufficient detail or evidence of a complaint about a student, staff member or affiliate to enable the alleged conduct to be properly investigated, a finding of misconduct may not be made and the College will be unable to take disciplinary action against the respondent.

(5) If a complaint about a student is not referred for action under the Disciplinary Code, or if a finding of misconduct is not made, the Rector will determine whether the complaint is appropriate for investigation or Assisted Resolution in accordance with the *SJC Student Complaints Procedure.*

Note: Assisted Resolution may include, an apology, mediation or conciliation, an agreed plan of action to avoid further incidents, and implementing awareness-raising or educational sessions about behaviour. See the *SJC Student Complaints Procedure.*

(6) If a complaint about a staff member or affiliate does not result in misconduct proceedings, or if a finding of misconduct is not made, the Rector will determine whether the complaint is appropriate for mediation or an alternative form of dispute resolution.

(7) In most circumstances, mediation and conciliation will be considered inappropriate for resolving complaints of sexual misconduct.

PART 5 – ANCILLARY PROVISIONS

19 Confidentiality

(1) Subject to this Clause and as provided in subclause 20(7), the College will keep confidential all information relating to a disclosure or complaint of sexual misconduct or sexual harassment, unless the student consents to disclosure of part or all of the information for a specified purpose.

(2) Subject to this clause, complainants and respondents must keep confidential:

(a) the identity of the complainant, the respondent and participants in the resolution or investigation of a complaint;

(b) the information provided or collected during the resolution or investigation of a complaint;

(c) the fact that a complaint has been made;

(d) any interim directions issued; and

(e) any report, outcome or determination of a complaint.

(3) Complainants and respondents may disclose information referred to in subclause (2) in order to obtain support or advice from:

(a) an immediate family member who agrees to maintain confidentiality;

(b) a qualified counsellor or psychologist;

(c) a College Support Adviser;

(d) a nominated support person or lawyer;

(e) the Police;

(f) the NSW Anti-Discrimination Board or Australian Human Rights Commission.

(4) The College may disclose information about a disclosure or complaint of sexual misconduct or sexual harassment if it is required to do so in accordance with any legal or regulatory requirement.

(5) Where a disclosure or complaint of sexual misconduct or sexual harassment relates to an incident that is alleged to have occurred at or in connection with:

(a) a Residential College;

(b) a facility or event run by or affiliated with a student representative organisation, student club or student society; or

(c) a student placement;

the College may disclose to the relevant Residential College, student representative organisation, student club or student society, or placement provider, as necessary, information about:

(i) interim measures taken against a student in accordance with Clause 17; and

(ii) the outcome of an investigation conducted in accordance with this Policy or any internal disciplinary process.

(6) A complainant whose complaint has been wholly or partially substantiated:

(a) by a court;

(b) by the University of Sydney, following an investigation conducted in accordance with the University's *Student Sexual Misconduct Policy 2023* and *Student Sexual Misconduct Response Procedures 2023*;

may disclose:

(c) the identity of the complainant and the respondent:

(d) any information provided by the complainant during the investigation that relates to those parts of the complaint that were substantiated; and

(e) the outcome of the complaint, as it relates to those parts of the complaint that were substantiated.

(7) A breach of confidentiality may result in disciplinary action including, where the person is a student, action under the Disciplinary Code.

20 Reports to the NSW Police

(1) The College supports the right of students and former students who have experienced sexual misconduct or sexual harassment to decide whether they want to report the incident to the NSW Police, or not.

Note: Students and former students may also elect to contact the NSW Anti-Discrimination Board or the Australian Human Rights Commission to make a complaint of sexual harassment under anti-discrimination legislation.

(2) A student or former student may decide to make a disclosure or complaint of sexual misconduct or sexual harassment to the College, but not report the incident to the Police. Alternatively, a student may decide to report sexual misconduct or sexual harassment to the Police, but not to make a disclosure or complaint to the College.

(3) A person's decision to make a report to the Police will not necessarily preclude the College from investigating or taking action in response to sexual misconduct or sexual harassment. However, any internal College process may have to be suspended pending completion of the criminal process.

(4) When deciding whether to suspend an internal College process pending completion of a criminal process, the College will consult the Police and the complainant and will consider:

(a) the potential for the internal process to impede or contaminate the criminal process;

(b) the potential for the criminal process to impede or contaminate the internal process; and

(c) whether investigating or responding to the incident has the potential to impact adversely on the rights of either or both the complainant or the respondent.

Note: The standard of proof to be satisfied in College investigations of sexual misconduct and sexual harassment is 'on the balance of probabilities', which requires satisfaction on the evidence that the matter found to have occurred is more likely to have occurred than not. The College will take into account the nature and seriousness of the alleged conduct when deciding whether the standard of proof is met. The standard of proof used in criminal investigations and trials is 'beyond reasonable doubt', which is a higher evidentiary standard of proof.

(5) The College is required to report information about the commission of a 'serious indictable offence' to the Police in accordance with section 316 of the *Crimes Act 1900* (NSW).

Note: A 'serious indictable offence' is an offence that is punishable by imprisonment for five years or more, such as conduct referred to in this policy as rape (also called sexual assault) or sexual touching.

(6) If a student or former student decides not to report an incident of sexual misconduct to the Police, the College will use its best efforts to protect the confidentiality of information relating to the student's disclosure or complaint, while meeting its obligations under the *Crimes Act 1900* (NSW).

(7) In some limited circumstances, the College may need to report an incident of sexual misconduct to the Police against a student's wishes, to ensure the safety of the student or other members of the College community, or to meet its legal obligations.

(8) The College will inform the student or former student before reporting an incident of sexual misconduct to the Police.

21 Active bystander intervention

(1) The College encourages and values safe active bystander intervention by members of the College community to prevent or stop sexual misconduct and sexual harassment from occurring or continuing and will support participation in training on this topic by staff and students.

(2) The steps involved in safe active bystander intervention are:

(a) noticing the situation – paying attention to what is going on nearby;

(b) deciding if it is a problem – investigating whether someone might need help, and checking with people around if unsure;

(c) accepting responsibility to take action – not assuming someone else will do something;

(d) making a plan to step in – indirectly or directly confronting the issue, without being aggressive or putting oneself or others in danger; and

(e) .if there is an immediate danger to anyone's safety, calling emergency services on 000 (triple zero) and/or contacting the University's Protective Services on 02 9351 3333.

22 No victimisation

(1) The College is committed to protecting the safety and wellbeing of any member of its community who reports sexual misconduct or sexual harassment.

(2) A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person:

;

(a) making a disclosure or a complaint of sexual misconduct or sexual harassment

(b) providing information about a disclosure or a complaint of sexual misconduct or sexual harassment;

(c) supporting a student who has made a disclosure or complaint of sexual misconduct or sexual harassment; or

(d) engaging in reasonable safe active bystander intervention.

(3) A breach of this clause may result in disciplinary action including, where the person is a student, action under the Disciplinary Code or, where the person is a staff member or associate, action under the *Staff Disciplinary Procedure.*

23 Vexatious complaints

(1) A student must not make a vexatious or malicious complaint of sexual misconduct or sexual harassment.

(2) For the purposes of this policy, a complaint will be considered vexatious or malicious if the student makes it:

(a) knowing it to be false; and

(b) for the primary purpose of damaging the College or the person against whom the complaint is made.

(3) Making such a complaint may result in disciplinary action including, where the person is a student, action under the Disciplinary Code or, where the person is a staff member or associate, action under the *Staff Disciplinary Procedure.*

24 Transactional sex and fraternization are prohibited in some circumstances

(1) Without limiting the effect of any other policy, students must not:

(a) Engage in transactional sex; or

(b) engage in fraternisation;

while carrying out duties or activities directly related to the delivery of programs or research funded by the Commonwealth Department of Foreign Affairs and Trade (**DFAT**), including the Australia Awards Scholarship Program and the New Colombo Plan Mobility Program.

(2) For the purposes of this clause:

(a) Transactional sex means the exchange of money, employment, goods or services for sex, including sexual favours; and

(b) Fraternisation means any relationship that involves, or appears to involve, partiality, preferential treatment or improper use of position, including:

(i) voluntary sexual behaviour;

(ii) a close relationship involving public displays of affection or private intimacy; and

(iii) the public expression of intimate relations.

25 Breach of this policy

(1) The College may take disciplinary action against any person who is knowingly involved in a breach of this policy.

(2) Where the person is a student, this may include action under the Disciplinary Code.

(3) Where the person is staff member or associate, this may include action under the *Staff Disciplinary Procedure*.

26 Record keeping

(1) The College will:

(a) keep appropriate records of all disclosures and complaints of sexual misconduct and sexual harassment in a secure location;

(b) keep appropriate records of its communications with other Residential Colleges and University owned or affiliated student accommodation about disclosures and complaints of sexual misconduct and sexual harassment occurring at, or in connection with, them; and

(c) subject to the confidentiality requirements specified in clause 19, allow reasonable access by students to information about themselves.

(2) Access to information relating to a disclosure or complaint of sexual misconduct or sexual harassment will be restricted to College staff who have a need to access and use the information in order to carry out their responsibilities under this policy or the *St John's College Student Complaints Procedure*.

27 Review

This policy will be reviewed within two years of the date of the last updated version.

SCHEDULE 1 – Emergency contacts

(1) In an emergency, students should contact the **RA on duty** on **0411 961 746.**

(2) In an emergency, students should contact **emergency services** by dialling triple zero (**000**).

(3) Students who feel unsafe on a University of Sydney campus or are concerned for someone else's safety can also contact **Campus Security** on **9351 3333**, 24 hours a day.

(4) Students and former students who have experienced sexual misconduct can contact:

a. **NSW Rape Crisis Service** on **1800 424 017**, 24 hours a day;

b. **1800RESPECT** on **1800 737 732** or online via www.1800respect.org.au, 24 hours a day;

c. **Royal Prince Alfred (RPA) Hospital Sexual Misconduct Service** on **9515 9040** (Monday to Friday) or **9515 6111** (after hours). Counselling and medical services are available for anyone who has been sexually misconducted. Campus Security can arrange transport to RPA.

SCHEDULE 2 –Support for students and former students who have experienced sexual misconduct or sexual harassment

(A) – College support

(1) A student or former student can make a disclosure to the College of any incident of sexual misconduct or sexual harassment:

(a) in person by contacting the Rector or any member of the College's Pastoral Team; or

(b) by submitting a message via the College's Anonymous Alerts app.

(2) A student or former student who has experienced sexual misconduct or sexual harassment can make a complaint to the College by contacting the Rector.

(3) The Rector or Rector's representative will arrange support for a student or former student who has experienced sexual misconduct or sexual harassment.

(B) – University of Sydney support

(1) A student or former student who has experienced sexual misconduct or sexual harassment can make a disclosure or a complaint to the University online at the University's 'Sexual Misconduct' web page or by calling **1800 SYD HLP** (**1800 793 457**) from 9am to 5pm, Monday to Friday.

(2) Students who have experienced sexual misconduct or sexual harassment have access to a range of University support services and assistance, including:

- **Student Liaison Officers** – contact **8627 6808** or email safer-communities.officer@sydney.edu.au, 8.30am-5.30pm, Monday to Friday;
- **on campus emergency accommodation** - contact Student Accommodation Services on **9351 3322**, 10am to 4pm, Monday to Friday. For after hours emergency accommodation, contact Campus Security on **9351 3333**;
- **security services** - contact Campus Security on **9351 3333**, 24 hours a day;
- **health services** (for current students only) - contact the University Health Service on **9351 3484**, 8:30am to 5pm, Monday to Friday;
- **counselling services** (for current students only) – contact Counselling and Psychological Services (CAPS) on **8627 8433**, 9am to 4:30pm, Monday to Friday;
- **disability support** - contact Disability Services on **8627 7422**, 9am-4pm, Monday to Friday;
- **academic support** - special consideration for examinations and assessments; and
- **student representative associations** – undergraduate students: contact the Student Representative Council (SRC) on **9660 5222**, 9am-5pm, Monday to Friday; postgraduate students: contact the Sydney University Postgraduate Representative Association (SUPRA) on **9351 3715**, 9am to 5pm (closed 12-1pm), Monday to Friday.

(3) Former students who have experienced sexual misconduct or sexual harassment have access to a range of University support services and assistance, which may include:

- **Student Liaison Officers** – contact **8627 6808** or email safer-communities.officer@sydney.edu.au, 8.30am-5.30pm, Monday to Friday;
- **security services** - contact Campus Security on **9351 3333**, 24 hours a day;
- **student representative associations** – undergraduate students: contact the Student Representative Council (SRC) on **9660 5222**, 9am-5pm, Monday to Friday; postgraduate students - contact the Sydney University Postgraduate Representative Association (SUPRA) on **9351 3715**, 9am to 5pm (closed 12-1pm), Monday to Friday.

SCHEDULE 3 –Support for students who have been accused of sexual misconduct or sexual harassment

(A) – College support

The Rector or Rector's representative will arrange support for a student who is accused of sexual misconduct or sexual harassment upon request.

(B) – University of Sydney support

Students who are accused of sexual misconduct or sexual harassment have access to a range of University support services and assistance, including:

- **health services** - contact the University Health Service on **9351 3484**, 8:30am to 5pm, Monday to Friday;
- **counselling services** - contact Counselling and Psychological Services (CAPS) on **8627 8433**, 9am to 4:30pm, Monday to Friday;
- **on campus emergency accommodation** - contact Student Accommodation Services on **9351 3322**, 10am to 4pm, Monday to Friday. For after hours emergency accommodation, contact Campus Security on **9351 3333**;
- **disability support** - contact Disability Services on **8627 7422**, 9am-4pm, Monday to Friday
- **academic support** - special consideration for examinations and assessments; and
- **student representative associations** – undergraduate students: contact the Student Representative Council (SRC) on **9660 5222**, 9am-5pm, Monday to Friday; postgraduate students: contact the Sydney University Postgraduate Representative Association (SUPRA) on **9351 3715**, 9am to 5pm (closed 12-1pm), Monday to Friday.