



# St John's College

Within The University of Queensland

## Sexual Misconduct Policy

If you have any questions about this policy, please do not hesitate to contact the Warden via email at [warden@stjohns.uq.edu.au](mailto:warden@stjohns.uq.edu.au)

Contact Officer	Date Approved by Council	Date of Last Review	Date of Next Review
The Warden	23/08/2022	20/02/2024	20/02/2025



# Sexual Misconduct Policy

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# Sexual Misconduct Policy

## 1. INTRODUCTION

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- 1.1 The Sexual Misconduct Policy guides and governs conduct within and affecting St John's College that falls within the definitions of sexual misconduct (section 5.7) and two sub-categories of sexual misconduct, being sexual assault (section 5.1) and sexual harassment (section 5.3).
- 1.2 The Sexual Misconduct Policy operates in conjunction with the Student Code of Conduct and to the extent of any inconsistency, the Sexual Misconduct Policy prevails if the conduct constitutes sexual misconduct as set out in this Policy.
- 1.3 The purpose of the Sexual Misconduct Policy is to:
  - (a) set out expected standards of behaviour further to those set out in the Staff and Student Code of Conduct;
  - (b) explain clearly the concepts of sexual assault, sexual harassment and sexual misconduct;
  - (c) encourage College students, staff and visitors to seek help for themselves, or for others, when any situation makes them feel uncomfortable, and report breaches of this Policy;
  - (d) guide College students and staff in creating a community where informed consent and respect for others' choices are valued, and the principles of the Policy are upheld and actively promoted;
  - (e) set out the procedures that the College will follow in responding to a disclosure or report; and
  - (f) make College students and staff aware of the support available to them.
- 1.4 The College will act on all reports of sexual misconduct and where it reasonably can do so, will take appropriate and proportionate action to address them with impartiality and sensitivity.
- 1.5 The College acknowledges that sexual misconduct under this Policy may constitute criminal conduct. College students, staff, and visitors are encouraged to report concerns about criminal conduct to the police and the College will support those who do so.
- 1.6 The College cannot make any determination of criminal conduct but it can investigate sexual misconduct matters and take action in respect of breaches of its rules, policies and procedures, including the Sexual Misconduct Policy, the Student Code of Conduct or the Staff Code of Conduct.



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- 1.7 Findings made under this Policy are made “on the balance of probabilities” i.e. whether the alleged behaviour is more or less likely to have occurred than not.

## 2. SCOPE

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- 2.1 The Sexual Misconduct Policy covers behaviours that constitute sexual misconduct, sexual harassment and sexual assault, and the procedures followed by the College when such incidents are reported.
- 2.2 The Sexual Misconduct Policy applies to conduct of a student who resides at St John's College and any staff member employed by the College or visitor, which:
- (a) occurs on land or property owned or occupied by the College;
  - (b) occurs during, or in connection with, any function, activity or event which is sanctioned by the College;
  - (c) relates to another College student, staff or visitor to the College;
  - (d) occurs when a person is representing the College in any capacity; or
  - (e) otherwise has the potential to affect their suitability to continue as a resident of the College or staff member having regard to the wellbeing and safety of other College students, staff or visitors to the College.
- 2.3 The Sexual Misconduct Policy may apply regardless of whether a student's or staff member's conduct occurred while they were a resident or employee of the College and may be applied regardless of whether the student or staff member no longer resides or works at the College.
- 2.4 Where there is a reference to “staff” in this Policy, it includes employees of the College, contractors and employees of contractors to the College.
- 2.5 For the avoidance of doubt, the Warden has a discretion not to proceed in relation to an allegation of misconduct in accordance with this Policy.



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## 3. PRINCIPLES

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- 3.1 Everyone who lives, studies or works at St John's College has the right to do so in a safe and inclusive environment, and has a role in creating and maintaining such an environment.
- 3.2 All College students, staff and visitors are expected to maintain respectful relationships at all times and in all circumstances.
- 3.3 The safety, welfare and support of all College students, staff and visitors is paramount. The College recognises that sexual misconduct may have an adverse impact on those experiencing or witnessing such behaviour and is committed to responding quickly and appropriately supporting anyone who is affected.
- 3.4 Confidentiality and information privacy will be upheld, in accordance with the College's legal obligations, policies and procedures.
- 3.5 The College recognises that sexual misconduct may be experienced by all people regardless of their gender or sexuality.
- 3.6 The College is committed to providing educational and training opportunities for College students, including those around developing respectful and consensual interpersonal relationships, sex positive sessions, gender equality policies and practices, sexual misconduct prevention, response protocols and processes.

## 4. EXPECTED CONDUCT

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### Active bystander intervention

- 4.1 St John's College encourages and values safe active bystander intervention by College students, staff and visitors to prevent or stop sexual misconduct, including sexual assault and sexual harassment, from occurring or continuing. The College offers active bystander training to students.
- 4.2 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;
  - (c) checking with people around if unsure;
  - (d) accepting responsibility to take action – not assuming someone else will do something; and



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- (e) making a plan to step in – indirectly or directly confronting the issue, without being aggressive or putting oneself or others in danger.

## Obtaining informed and positive consent

- 4.3 St John's College expects College students and staff to understand consent and requires that they take proactive steps to obtain informed and positive consent at all times in relation to any conduct of a sexual nature. Failure to take steps to obtain consent will constitute a breach of the Sexual Misconduct Policy.
- 4.4 A person seeking consent has the responsibility to ascertain consent exists. Consent requires more than just saying yes. Consent must be obtained explicitly and through explicit actions. Consent may also be withdrawn at any time.
- 4.5 Everyone must understand that informed consent to a sexual act can only be given by those who are:
  - (a) 16+ years old;
  - (b) fully conscious, awake and not intoxicated;
  - (c) not intimidated, coerced, threatened or afraid of harm to themselves or someone else;
  - (d) free from influence or peer pressure, particularly from an older person; and
  - (e) aware of all the relevant facts.
- 4.6 This includes:
  - (a) being given sufficient information to understand what they are agreeing to;
  - (b) being given a free choice to opt in or out;
  - (c) being permitted to change their mind at any time; and
  - (d) the fact that a person does not say 'no' or does not 'physically resist a sexual act' does not of itself mean that they consent to the act.



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## 5. CONDUCT WHICH WILL BREACH THE SEXUAL MISCONDUCT POLICY AND THE STAFF OR STUDENT CODE OF CONDUCT

### Sexual assault

- 5.1 Sexual assault is a term used to describe a range of sexual offences, from kissing or touching another person without their consent to penetrating another person's body with a body part or object without their consent. Forcing someone else to commit or witness these acts can also constitute sexual assault.
- 5.2 These acts may constitute a criminal offence. The College encourages that potential criminal conduct is reported to the police. The College does not have jurisdiction over criminal complaints or investigations conducted by the police. However, the College will act on conduct that breaches its policies and procedures particularly where the conduct impacts on the safety, health and wellbeing of others.

### Sexual harassment

- 5.3 Sexual harassment is any unwanted or unwelcome behaviour of a sexual nature that offends, humiliates or intimidates an individual or group of people. It may occur as the result of a single incident or repeated incidents, in circumstances where a reasonable person would have anticipated a possibility that the harassed would be offended, humiliated or intimidated.
- 5.4 Sexual harassment is not interaction, flirtation or friendship which is mutual or consensual.
- 5.5 Sexual harassment may include:
- (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 on dates;



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- (i) intrusive questions about a person's private life or physical appearance; and/or
- (j) requests or pressure for sexual intercourse, or other sexual acts.

5.6 Sexual harassment can occur both verbally and physically, as well as through email, text, messaging, social media posts and other forms of electronic communication. Acts of sexual harassment may also constitute sexual assault.

## Sexual misconduct

5.7 Sexual misconduct refers to any misconduct of a sexual nature, including sexual harassment and sexual assault. It may also be used to describe activity of a sexual nature that is not in and of itself harassment or assault. Where the term is used within this Policy, it should be taken to encompass any inappropriate behaviour, conduct or activity of a sexual nature (particularly where consent is not given), including sexual harassment and sexual assault.

## 6. REPORTING

- 6.1 The College is committed to promoting a culture of preventing and responding to incidents of sexual misconduct. Should a College student, staff or visitor witness or experience sexual misconduct, they are encouraged to speak to the Vice Warden or to a College staff member. The College encourages College students, staff and visitors to disclose or report any incidents which may be in breach of the Sexual Misconduct Policy.
- 6.2 Where possible and subject to student and staff safety and wellbeing and compliance with laws, disclosures or reports of incidents will be kept confidential. This means that participants in any process under the Sexual Misconduct Policy will be reminded about the importance of confidentiality and will be expected to adhere to any directions they are given about maintaining and respecting confidentiality.
- 6.3 Failure to comply with directions regarding confidentiality may constitute a breach of this Policy and the Student or Staff Code of Conduct.
- 6.4 The College's actions to maintain privacy and confidentiality is in no way intended to prevent either the complainant or the respondent seeking other advice, support or guidance.
- 6.5 Following receipt of a report of sexual misconduct, the College will work with the reporting party to explore options of support and follow-up and to identify procedures for investigation if required in relation to the matter.





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- 6.6 The College encourages any person who has been a victim of sexual misconduct to report incidents promptly. The College will seek to facilitate the efficient handling of any complaint made. Insofar as matters are within the control of the College, the College will seek to deal with any reports in a trauma-informed manner and, subject to confidentiality, advise parties to a complaint of progress and outcomes.
- 6.7 If any student or staff have experienced or witnessed sexual misconduct, they may also wish to contact the police to make a report, see section 12.6 below.

## 7. INVESTIGATIONS

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- 7.1 If the College becomes aware of conduct that may breach the Sexual Misconduct Policy, it may instigate an investigation. Any such investigation is concerned solely with a potential breach of this Policy and does not supplant, preclude or affect any investigation that may also be undertaken by the police or the university at which a student is enrolled.
- 7.2 Investigations will be conducted in a fair and balanced manner, in accordance with the principles and procedures set out in the Addressing Concerns and Complaints Policy.

## 8. CONFIDENTIALITY

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- 8.1 At all times the College aims to deal with matters arising under the Sexual Misconduct Policy in a confidential manner and in accordance with the complainant's wishes, to the extent that is appropriate in a given case and insofar as the maintenance of confidentiality does not conflict with other obligations and responsibilities of the College (including providing appropriate support to its staff and students).
- 8.2 Decisions to share information without the consent of the complainant may only be made by the Warden. In such circumstances, the complainant will be informed and given every possible support by the College.

## 9. NO VICTIMISATION

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- 9.1 The College encourages students, staff and visitors to make disclosures and raise concerns or complaints when they witness or experience sexual misconduct so they can be heard and the issues addressed.
- 9.2 The College expects that no person will victimise or otherwise subject another person to detrimental action as a consequence of that person:



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- (a) making a disclosure or a complaint of sexual misconduct;
- (b) providing information about a disclosure or a complaint of sexual misconduct;
- (c) supporting another person who has made a disclosure or complaint of sexual misconduct; and/or
- (d) engaging in safe active bystander intervention.

9.3 Any victimisation may result in consequences including under the Addressing Concerns and Complaints Policy

## 10. ACTING HONESTLY AND WITH INTEGRITY

10.1 Students and staff should act honestly and with integrity. Nobody should make a vexatious or malicious complaint of sexual misconduct or for an improper purpose.

10.2 For the purposes of the Sexual Misconduct Policy, a complaint will be considered vexatious or malicious if it is made knowingly to be false or for a purpose of damaging the College or the person against whom the complaint is made.

10.3 Such conduct may also be considered a breach of the Student or Staff Code of Conduct.

## 11. CONSEQUENCES

11.1 If the College determines that conduct has occurred which is a breach of the Sexual Misconduct Policy, whether after any investigation or otherwise, it may implement consequences as outlined in this section.

11.2 For students, the consequence for breaching the Sexual Misconduct Policy will be determined by the College on the basis of the seriousness of the alleged conduct, the student's past conduct and behaviour and the impact on others. As set out in the Addressing Concerns and Complaints Policy, the consequences for breaching the Sexual Misconduct Policy may include, but are not limited to:

Response	Description
Removal of rights or privileges	This might include access to facilities, activities or events, or eligibility for leadership positions and other positions of responsibility.
Moving of rooms	A requirement that a student relocate to another room within the College.



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Response	Description
<b>Restitution</b>	A requirement that a student contribute to the costs of repair or compensation for loss or damage which has been incurred as a result of their conduct.
<b>Reprimand</b>	A verbal caution that the conduct has breached the Student Code of Conduct (or other related policy) or could lead to a breach. The College's expectations of future behaviour will be re-stated. A student may be required to give an apology to any person impacted by the conduct.
<b>Warning</b>	A written warning that the conduct has breached the Student Code of Conduct (or other related policy). A record will be kept on the College's file. The College's expectations of future behaviour will be re-stated. The student may be required to give an apology to any person impacted by the conduct.
<b>Suspension</b>	A requirement that a student remove themselves from College for a set period of time determined by the College.
<b>Expulsion</b>	A requirement that a student remove themselves (and all property) from the College permanently and that they cease to be a member of the College and lose all rights as an alumnus/alumnae of the College.

- 11.3 For former students, invited guests and any other visitors to the College, the consequences for breaching the Sexual Misconduct Policy may include a permanent prohibition on attending College grounds and/or College events.
- 11.4 For staff involved in a breach of this policy disciplinary action up to and including termination of employment may follow a substantiated allegation.
- 11.5 For the avoidance of any doubt, any action by the College does not constitute any finding that supplants, precludes or affects any action that may be taken by the police or, in relation to a student, any university at which the student is enrolled.

## 12. WHERE TO GO FOR SUPPORT AND INFORMATION

### Seeking assistance and support within the College

- 12.1 The College encourages anyone who has experienced or witnessed sexual misconduct to seek support as soon as possible.



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- 12.2 The College staff who have received appropriate training to assist them to support victims of sexual misconduct include:
- (a) Warden
  - (b) Vice Warden
  - (c) Provost
  - (d) Dean of Student Wellbeing
  - (e) Chaplain
- 12.3 They will listen non-judgementally, provide support, and guide victims to the right services.
- 12.4 The College will provide both complainants and respondents with referrals for support externally.

## Seeking assistance and support

- 12.5 If a student is at risk of feeling unsafe at College, they may also be at risk of feeling unsafe outside of College (e.g. when attending university classes). To ensure the safety, health and wellbeing of any student, the student may wish to inform those external to College, such as their university, of the potential risk.

## Contacting the police

- 12.6 If any College student, staff member or visitor experiences or witnesses sexual misconduct, they may make a report to the police.
- 12.7 In the event of an investigation being undertaken by the police, the following principles apply:
- (a) the College will support any College student or staff member who chooses to make a police report at any time, but will not compel anyone to make a report if they do not want to; and
  - (b) the College cannot make a report on behalf of a College student or staff member but will support any such individual who does so, including accompanying them to the police.