



ST MARY'S COLLEGE
THE UNIVERSITY OF MELBOURNE

Sexual Harm, Gender-based Violence, Discrimination and Bullying Policy

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1. PURPOSE

St Mary's College is committed to providing an environment that is safe, supportive and free from Sexual Harm, Discrimination, Bullying, Vilification, Victimisation, and Gender-based Violence (**Prohibited Conduct**).

This Sexual Harm, Gender-based Violence, Discrimination and Bullying Policy (**Policy**) outlines St Mary's College's commitment and approach to preventing and responding to Prohibited Conduct, and the support available to those affected.

The purpose of this Policy is to:

- (a) set clear standards of behaviour for Students, Residents, Staff and Associates of the College in relation to Prohibited Conduct, and strengthen the College's safe and inclusive culture;
- (b) make clear that Prohibited Conduct will not be tolerated, and has no place in the College community;
- (c) commit the College to taking positive action to prevent Prohibited Conduct, and to taking timely and appropriate action when it occurs;
- (d) prioritise the safety and wellbeing of individuals making disclosures or Formal Reports of Prohibited Conduct;
- (e) encourage people to report Prohibited Conduct and engage in safe and ethical bystander intervention;
- (f) describe how Disclosures and Formal Reports of Prohibited Conduct can be made and how they will be managed.

All forms of Prohibited Conduct are unacceptable and are prohibited under this Policy and the Community Expectations Agreement.

Support

If you or somebody you know are in danger or at risk of Sexual Harm, please contact 000 immediately. Additional internal and external supports for all forms of Prohibited Conduct (including counselling or translating and interpreting support) are set out at sections 8 and 9 of this Policy.

Terminology

The College acknowledges that people who experience Prohibited Conduct may refer to themselves as a victim, survivor, victim-survivor or complainant. For simplicity, this Policy and the Sexual Harm, Gender-based Violence, Discrimination and Bullying Procedure (**Procedure**) will refer to:

people who make a Disclosure or Formal Report of Prohibited Conduct as 'Reporters' (who may or may not be the person who experienced the Prohibited Conduct);

- people who have experienced Prohibited Conduct as 'Victim-survivors';
- the provision of information about a person's experience of Prohibited Conduct by the Reporter or another person as 'Disclosures'
- Disclosures of Prohibited Conduct which are subsequently reported through formal reporting channels as 'Formal Reports'; and
- people who are alleged to have engaged in Prohibited Conduct as 'Respondents'.

Definitions for these and other key terms are set out in **Appendix A** of the Policy. All defined terms in the Policy and Procedure use title case.

2. SCOPE

- (a) The Policy and Procedure applies to all Students, Residents, Staff and Associates of St Mary's College (**College**) in respect of Prohibited Conduct occurring:
 - (i) on all campuses and facilities of the College, including accommodation owned or operated by the College;
 - (ii) through online or virtual environments (e.g. email, intranet systems, social media, online forums, communities and platforms);
 - (iii) at any premises in which research, study or learning is undertaken as part of a College activity, including but not limited to placements, internships or field work;
 - (iv) at all activities and events connected with the College (such as sporting events, cultural activities, competitions, conferences and Alumni activities), regardless of where the activity is held;
 - (v) whilst Students, Residents, Staff and Associates represent the College, a club affiliated with the College, or whilst on exchange or sabbatical; and
 - (vi) between a Staff Member, Student, Resident and / or Associate of the College.
- (b) Where the College receives a Report from a former Student, Resident, Staff Member or Associate of the College about Prohibited Conduct while they were at the College, the Safe Coordinator and Principal may (at their discretion), respond to that Report in line with the Procedure.
- (c) For the avoidance of doubt, the Policy and Procedure are not incorporated into the contracts for any Students, Residents, Staff Members or Associates, and does not give rise to any rights or entitlements.

3. COLLEGE POSITION ON PROHIBITED CONDUCT AND GENDER-BASED VIOLENCE

- (a) This Policy applies to Prohibited Conduct which is defined in **Appendix A** to include Sexual Harm, Discrimination, Bullying, Vilification, Victimisation and Gender-based Violence.
- (b) Sexual Harm is defined in **Appendix A** and refers to all unwelcome conduct of a sexual nature and includes Sexual Harassment, Sexual Assault, Stealthing, Image-Based Harm, Stalking, Drink Spiking and Gender-based Violence of a sexual nature. All forms of Sexual Harm constitute a breach of this Policy.
- (c) Sexual Harm can:
 - (i) occur between strangers or those who know each other well, including those involved in a consensual intimate relationship;
 - (ii) involve a single incident or comment, or repeated, continuous behaviour.

Behaviour that is consensual and based on mutual attraction, friendship and respect is not Sexual Harm.
- (d) Gender-based Violence includes any form of physical or non-physical violence, harassment, abuse or threats, based on gender, that results in, or is likely to result in, harm, coercion, control, fear or deprivation of liberty or autonomy.
- (e) Definitions of other forms of Prohibited Conduct are contained in Appendix A.
- (f) All forms of Prohibited Conduct, including Gender-based Violence, are unacceptable.

- (g) The College aims to prevent Prohibited Conduct by:
- (i) Setting clear standards of behaviour and strengthening our culture to be safe and inclusive;
 - (ii) Encouraging respectful relationships;
 - (iii) Upholding the behaviours set out in the College's Community Expectations Agreement;
 - (iv) Encouraging Students, Residents, Staff and Associates to report Prohibited Conduct;
 - (v) Promoting and encouraging active and ethical bystander intervention;
 - (vi) Informing and empowering Residents, Students, Staff and Associates to respond compassionately and effectively to any information they receive in relation to Prohibited Conduct;
 - (vii) Providing regular education, training and communication following consultation with the University;
 - (viii) Ensuring education, training and resources meet the needs of the diverse College community and higher risk cohorts including women, First Nations people, culturally and linguistically diverse communities, people with disability and people of diverse sexual orientation and gender identity; and
 - (ix) Responding swiftly and sensitively to Prohibited Conduct connected with the College.
- (h) The College is committed to complying with the requirements set out in the National Higher Education Code to Prevent and Respond to Gender-based Violence (**the Code**), including through implementation of this Policy and Procedure. The College recognises that a range of factors contribute to Gender-based Violence in college environments, including:
- (i) Some Students, Residents, Staff and Associates may have pre-existing learned behaviours that contribute to Gender-based Violence, including those coming from single sex schools;
 - (ii) Existing relationships and the close physical proximity of residents living together at residential colleges which makes it challenging to address or create a level of separation between Students, Residents, Staff and Associates when issues arise;
 - (iii) Underlying social expectations and power dynamics at university and college, including, for example, power dynamics between senior and first year Students, Students in leadership positions, or between Staff and Residents;
 - (iv) Consumption of alcohol, either on campus or in off-campus environments; and
 - (v) A lack of understanding and awareness of what constitutes Gender-based Violence, contributing to incidents in orientation week.
- (i) Where required, the College will work with the University to meet its obligations under the Code, having regard to the University's Policy on Gender-based Violence as amended from time to time.

4. PRINCIPLES

- (a) The College will apply the following principles when preventing and responding to Prohibited Conduct in line with this Policy:
- (i) **Respecting Victim-survivors:** prioritising the safety and wellbeing of people who have experienced Prohibited Conduct by providing a trauma-informed approach which supports, listens to and validates their experience
 - (ii) **Focusing on prevention:** proactively fostering a safe, equitable and respectful environment for all members of the College community to prevent Prohibited Conduct;
 - (iii) **Implementing a safe process:** implementing a safe, sensitive and timely process when responding to Prohibited Conduct;
 - (iv) **Empowering accountable leadership:** Leaders are accountable to the College for preventing Prohibited Conduct and must empower all members of the College community to be informed, active and ethical bystanders who uphold and champion these principles through their actions, words and decisions.
 - (v) **Building community knowledge and understanding:** taking proactive steps to educate and inform the College community of what constitutes Prohibited Conduct and reinforce the message that all forms of Prohibited Conduct will not be tolerated.
 - (vi) **Sound decision-making:** making decisions that are unhindered by the status, power or influence of the parties involved and protecting and supporting those who come forward from victimisation.
 - (vii) **Supporting cultural sensitivity and safety:** ensuring safety for all members of the College community by being aware of cultural differences, and by recognising and addressing cultural and linguistic barriers.
 - (viii) **Respecting intersectionality:** Understanding, respecting, and embracing the many aspects of a person's identity in preventing and responding to Prohibited Conduct. These may include Indigeneity, race, ethnicity, socio-economic background, migration status, age, disability, religion, sex, gender, gender identity and sexuality as well as a range of individual unique characteristics and experiences including previous experiences of Prohibited Conduct including Gender-based Violence and/or Sexual Harm.
- (b) This is underpinned by the College's view that:
- (i) all people have a right to live, work, study and socialise in an environment that is free from Prohibited Conduct;
 - (ii) Sexual Harm is never the fault of the person who does not consent to the sexual conduct; and
 - (iii) people who disclose that they have experienced Prohibited Conduct should be believed.

5. EXPECTED BEHAVIOURS

- (a) All Students, Residents, Staff and visitors must comply with the Policy and the Community Expectations Agreement, and have a responsibility to:
- (i) Treat others with dignity, courtesy and respect at all times;

- (ii) Uphold the values of the College;
 - (iii) Protect the health, safety and wellbeing and privacy of others in the College community;
 - (iv) Engage in safe and ethical bystander action to prevent risks of Prohibited Conduct;
 - (v) Respond in a compassionate, empathetic and supportive manner to any person who discloses that they have experienced, witnessed or have information about Prohibited Conduct, and support the person to connect with the support services outlined at section 8;
 - (vi) seek Consent when engaging in all sexual activities;
 - (vii) ensure they do not request, instruct, induce, encourage, authorise or assist other persons to engage in Prohibited Conduct;
 - (viii) comply with any lawful and reasonable direction or request from College Staff Member, particularly where it supports safety, good order and compliance with this Policy.
- (b) Students, Residents, Staff and Associates must not:
- (i) engage, attempt to engage or threaten to engage in any form of Prohibited Conduct;
 - (ii) request, instruct, induce, encourage, authorise or assist other persons to engage in Prohibited Conduct; or
 - (iii) engage in behaviour that causes any person to fear for their personal safety or well-being, or could reasonably be perceived to be threatening or intimidating.
- (c) Staff Members have additional responsibilities under the Policy and Procedure. The roles and additional responsibilities of Staff Members, Safe Coordinator, Safe Contact Persons, Principal, and External Advisors are set out in **Appendix B**. The contact details for relevant Staff are contained in **Appendix C**.

6. BREACHES

- (a) All Students, Residents, Staff and Associates must not engage in Prohibited Conduct and must comply with this Policy (including the Annexures and Procedure).
- (b) Some forms of Prohibited Conduct, including Sexual Harm, constitute serious misconduct and may also be a criminal offence.
- (c) A breach of this Policy may lead to the outcomes in section 7 of this Policy.
- (d) Individuals who engage in Prohibited Conduct may be personally liable for that conduct.
- (e) Prohibited Conduct by a person who is both Staff Member and a Resident amounts to a breach of that person's responsibilities both as a Staff Member and as a Resident.
- (f) The College may dismiss a Staff Member with notice for engaging in misconduct, and without notice for engaging in serious misconduct. Serious misconduct includes (but is not limited to):
 - (i) Sexual Harassment;

- (ii) wilful or deliberate behaviour that is inconsistent with the continuation of the contract of employment;
 - (iii) conduct that causes serious and imminent risk to the health or safety of a person, or the reputation, viability or profitability of the College; and
 - (iv) the Staff member refusing to carry out a lawful and reasonable instruction that is consistent with the employee's employment.
- (g) For the avoidance of doubt, this Policy is not incorporated into the contracts for any Students, Residents, Staff Members or Associates, and does not give rise to any right or entitlement.

7. POSSIBLE OUTCOMES

- (a) The College is committed to taking action (whether disciplinary or non-disciplinary) in respect of Prohibited Conduct and / or breaches of this Policy. However, it is not possible to guarantee a particular outcome in relation to a breach of this Policy for the following reasons:
- (i) although the College treats all possible breaches of this Policy seriously, the relevant conduct may be regarded on a scale from minor to extremely serious;
 - (ii) the College will consider the views of the person who experienced the Prohibited Conduct to provide input on its proposed outcome before making a decision on the appropriate outcome;
 - (iii) consultation with Students and Residents in developing this Policy found a lack of support for a "one size fits all" approach and an approach led by the College without allowing a Reporter agency about the process, which may have the effect of undermining the wishes of the person who experienced the Prohibited Conduct;
 - (iv) the College has unique obligations to Students, Residents, Staff and Associates, and proposed disciplinary action will need to be considered in light of those obligations.
- (b) Possible outcomes include, but are not limited to:
- (i) Disciplinary action against the Respondent (including the termination of their employment or engagement with or without notice);
 - (ii) Formal warnings (including final warnings) that are noted on the Respondent's file;
 - (iii) Recommending the removal of the Respondent from positions of responsibility;
 - (iv) Restrictions on the Respondent's participation in the College's activities (including Alumni events held off campus), and/or attendance at College;
 - (v) Suspending or terminating the Respondent's residence, or relocating the Respondent;
 - (vi) Informal counselling or education;
 - (vii) Requirement to undertake formal training or development;
 - (viii) A formal apology by the Respondent and/or bystanders;
 - (ix) Written undertakings that the behaviour will cease;

- (x) Mediation conducted by an impartial third party (where requested by the person who experienced the Prohibited Conduct and both parties agree to participate);
- (xi) Other restorative practices which aim to repair relationships that may have been damaged and enable people to move forward (where requested by the person who experienced the Prohibited Conduct);
- (xii) Reports to external authorities (e.g. police where there is an immediate or ongoing risk to the health, safety or wellbeing of any person);
- (xiii) Reports to the eSafety Commissioner and/or Take It Down in response to Image-Based Harm and other harmful online conduct; and
- (xiv) Preventing further contact with Students, Residents, Staff or Associates, including the Reporter.

8. SUPPORT SERVICES

- (a) All members of the College community are encouraged to seek assistance and support in relation to Prohibited Conduct at the earliest opportunity.
- (b) In an emergency or where a person is in immediate danger, please contact:
 - (i) Police and emergency services (24 hours) call 000
 - (ii) The College Duty Phone (0425 747 921 every night 9pm-7am) or the Principal (0431 209 608 - 24 hours)
- (c) Sexual Harm often constitutes criminal conduct. Victoria Police can provide advice and access to a range of external services for additional support and assistance.
- (d) Additional support in response to Disclosures of Prohibited Conduct is available through the:
 - (i) **Safe Coordinator** and **Safe Contact Persons** at the College, who can provide guidance on the options to report Prohibited Conduct once a Disclosure is made, and assist Reporters and Respondents to engage with the University, the Police, the eSafety Commissioner, medical and external counselling services as appropriate. Contact details are available at **Appendix C**. Where Residents do not attend the University of Melbourne, the SAFE Coordinator will use their best endeavours to connect Residents with support services at their university.
 - (ii) **eSafety Commissioner**, which can investigate adult cyber abuse, image-based abuse and illegal and restricted content. Online harm can be reported at www.esafety.gov.au/report.
 - (iii) **Take it Down** which can assist with the removal of sexually explicit images of people when they were under 18. For more information, go to <https://takeitdown.ncmec.org/>
 - (iv) **Sexual Assault Crisis Line**, which provides 24/7 confidential, telephone crisis counselling service for people who have experienced sexual assault. For more information call 1800 806 292 or 9635 3600. Located at Level 3, 210 Lonsdale Street, Melbourne.
 - (v) **National Hotline for Sexual Assault, Domestic Violence or Family Violence**, which provides free 24/7 counselling on sexual assault, family &

domestic violence by phone and webchat. For more details visit 1800respect.org.au or call 1800 737 732 (1800 RESPECT).

- (vi) **University of Melbourne Counselling and Psychological Services (CAPS)**, which is available for all students, staff or associates of the University of Melbourne who are experiencing, or have experienced, any form of sexual harm. For more information contact: <http://www.services.unimelb.edu.au/counsel> or phone (03) 8344 6927. CAPS is located at Level 5, 757 Swanston Street, Parkville.
- (vii) **Safer Community Program**, which provides support and advice to members of the University of Melbourne community about inappropriate, concerning or threatening behaviour. For more information contact (03) 9035 8675, or email at safer-community@unimelb.edu.au. Safer Community Program is located at 757 Swanston Street, Parkville.
- (e) For people who require a translating or interpreting service, phone 13 14 50 and ask them to connect you with the service that you need.
- (f) For people who are deaf or have a hearing or speech impairment, contact the National Relay Service:
 - (i) for TTY users/Voice Calls, phone 133 677;
 - (ii) for Speak and Listen, phone 1300 555 727; or
 - (iii) for SMS relay, contact 0423 677 767,and ask them to connect you with the service you need.

9. INTERNAL SUPPORT SERVICES

- (a) Students, Residents, Staff and Associates are encouraged to seek support in relation to Prohibited Conduct from the Safe Coordinator and Safe Contact Persons at the College, who can provide guidance on the:
 - (i) supports available;
 - (ii) options to report Prohibited Conduct, and assist Reporters and Respondents to engage with the University, the Police, medical and external counselling services as appropriate. Contact details are available at **Appendix C**.
- (b) The College is committed to supporting Reporters and those to whom a disclosure is made. Such support may include:
 - (i) access to internal or external counselling services, including provision of financial support to be assessed on a case-by-case basis;
 - (ii) changes to work / study timetable, residential arrangements and environment at the College;
 - (iii) changes to supervision, reporting or tuition arrangements;
 - (iv) providing additional or alternative academic support, including support with applying for special consideration through the University;
 - (v) allowing time to attend support services;
 - (vi) assistance to overcome any cultural or linguistic barriers that may exist;

- (vii) provision of support services targeted towards people with particular identities, including but not limited to, First Nations communities, culturally and linguistically diverse communities, people with disability and people of diverse sexual orientation or gender identity;
 - (viii) for Staff, re-crediting leave taken as a result of Prohibited Conduct; and
 - (ix) any other support that the individual requests and that the College considers appropriate in the circumstances.
- (c) The College is also committed to supporting the welfare of Respondents. This support may include:
- (i) referral or access to internal or external counselling services;
 - (ii) granting leave to attend support services;
 - (iii) assistance to overcome any cultural or linguistic barriers that may exist; and
 - (iv) provision of support services targeted towards people with particular identities, including but not limited to, First Nations communities, culturally and linguistically diverse communities, people with disability and LGBTQIA+ people;
 - (v) any other support requested by the Respondent that the College believes is appropriate in the circumstances.

10. CONFIDENTIALITY AND USE OR DISCLOSURE OF INFORMATION

- (a) The confidentiality and privacy of a person who discloses an incidence of Prohibited Conduct, and that of Respondents and parties to disclosure, must be protected and respected at all times.
- (b) The College recognises an individual's right to speak about what they have experienced or witnessed and to seek support. Individuals may disclose confidential information, including circumstances leading to the Disclosure, Formal Report, investigation process or investigation outcome, for the purpose of:
 - (i) obtaining support from family members and others, including but not restricted to, other close friends, legal advisers, medical practitioners, counsellors or psychologists, spiritual guides, student and union representatives, an Aboriginal or Torres Strait Islander Elder or trusted Aboriginal or Torres Strait Islander community member; or
 - (ii) reporting or pursuing any matter with police or other government authorities, including the Victorian Equal Opportunity and Human Rights Commission, the Australian Human Rights Commission or the Fair Work Commission.
- (c) The College may ask the parties to agree to maintain confidentiality while it is responding to the Formal Report, in line with the Procedure. This is important to minimise the potential for victimisation, ensure that all people have the confidence to raise allegations, and ensure that witnesses have not had the chance to collaborate or influence each other's recollection.
- (d) Unless requested by a Victim Survivor, the College will not require parties to enter into a non-disclosure agreement or agree to any conditions relating to non-disparagement in relation to Disclosures or Formal Reports that involve Gender-based Violence.

- (e) The College will keep information provided to it relating to a Disclosure or Formal Report confidential. Any use or disclosure of personal information will be in accordance with the College's Privacy Policy.
- (f) Such confidential information may only be disclosed to third parties to:
 - (i) comply with any law, legal obligations or duties or obtain legal advice; or
 - (ii) report a matter to police; or
 - (iii) provide pastoral care and facilitate access to support services; or
 - (iv) investigate a Report; or
 - (v) cooperate in an investigation where a person making a Report has disclosed that they have also made a report to the University. This will be done where the Reporter has consented to information sharing or where the College considers that it is appropriate in the circumstances.
- (g) The Safe Coordinator will keep the Principal informed of the status of the College's response to the Formal Report. Reports to the College Council will be de-identified and of a general nature only.
- (h) The College should not provide the Formal Report or statement of the person who experienced the Prohibited Conduct to the Respondent. Where the College considers that it is appropriate to share the nature of the concerns with the Respondent, this should be limited to high level factual allegations and contextual information only. The Reporter's identity should not be revealed to the Respondent unless the Reporter has consented to that disclosure.
- (i) Where appropriate, the College may provide high level information about Reports to relevant Staff and Student Leadership for the purpose of providing pastoral care and support.
- (j) The College may be required to provide information to the University for the purposes of complying with its information sharing and reporting obligations in relation to Gender-based Violence under the Code including for but not limited to the following purposes:
 - (i) to facilitate access to support services or implement a support plan; and
 - (ii) to cooperate fully with the University where the University is leading the response to a Disclosure.
- (k) If a Disclosure or Formal Report relates to Gender-based Violence that occurred at the College and the College is leading the response, the College may be required to provide information to the University about a Disclosure, including informing the University of the outcome of any risk assessment and for assistance with managing and monitoring any identified risks:
 - (i) with the consent of the Reporter; or
 - (ii) where as a result of the risk assessment, it is reasonably necessary to provide that information to the University to protect the wellbeing and safety of Students and/or Student Accommodation Staff; or
 - (iii) where such information is confined to the fact that a Disclosure has occurred and how that Disclosure is being managed by the College consistently with the

Code and any information sharing agreement between the College and University, and is provided in a manner which does not and would not identify the Reporter.

Case Study: A case of Sexual Harm has been disclosed and students A and B will need support. No student activities should be planned which would involve having students A and B in proximity. We need to temporarily relocate student B for health and safety reasons.

Where such a Disclosure is made, the College will remind the recipients to keep the information strictly confidential.

The College will advise professional registration bodies or other authorities of a finding of Prohibited Conduct where it is lawfully required to do so.

11. RECORD KEEPING

- (a) The College will ensure that Disclosures and Formal Reports of Prohibited Conduct are collected and stored confidentially in line with the Policy and Procedure, including:
 - (i) details of the incident;
 - (ii) steps taken to respond to the incident / Formal Report;
 - (iii) support or assistance required or provided (e.g. whether the person received counselling, whether they reported to police, whether they received support from an external provider);
 - (iv) the College's response to the Formal Report (including referrals to external bodies and support services); and
 - (v) any feedback provided by the Reporter / Respondent in relation to the process.
- (b) On request, the College will provide the person who experienced the Prohibited Conduct with information on their Formal Report.
- (c) The Principal and Safe Coordinator will:
 - (i) keep appropriate records of all Formal Reports of Prohibited Conduct centrally and securely;
 - (ii) retain all records in accordance with the College's records management policies;
 - (iii) respond to requests for access to records by individuals and provide access to those records only in accordance with the College's Privacy Policy;
 - (iv) ensure that Disclosures and Formal Reports are de-identified and anonymised as needed;
 - (v) ensure access to information relating to Disclosures and Formal Reports of Prohibited Conduct are restricted to Staff who have a need to access and use the information to carry out or support responsibilities under this Policy.
- (d) The College may also make reports or share information in accordance with its obligations under the Code. This includes:
 - (i) cooperating with the University where a Reporter has elected the University to lead the response to a Report of Gender-based Violence;

- (ii) providing de-identified information to the University of Melbourne as an affiliated College.

12. VICTIMISATION

It is unlawful to victimise any person for making a Disclosure or Formal Report of Prohibited Conduct. Any retaliatory action taken or threatened against a Staff Member, Resident, Student or Associate because of their involvement or suspected involvement in a Disclosure or Formal Report of Prohibited Conduct can result in disciplinary action. Retaliation includes (but is not limited to) threatening, intimidating, harassing, or isolating a person, or engaging in any other detrimental conduct that interferes with an investigation.

13. FALSE OR MISLEADING ALLEGATIONS

- (a) It is the College's position that people who experience Prohibited Conduct should be believed. Deliberately making a false or misleading Formal Report is a serious matter and is unacceptable. Where the College is satisfied, on a reasonable basis, that a Formal Report is malicious, frivolous or vexatious, the Reporter may face disciplinary action.
- (b) A Reporter will not be sanctioned just because an investigation is inconclusive and the allegations cannot be substantiated. Disciplinary action will only arise where there is compelling evidence that a Formal Report was false or misleading.

14. DISSEMINATION AND REVIEW

This Policy and Procedure is available on the College's website, and is communicated to all Students, Residents, Staff and Associates via email and hard copy, during Student and Staff orientation, and on college noticeboards. The Policy and Procedure will be reviewed every two years (or more frequently, if required) by the College.

15. RELATED POLICIES AND PROCEDURES

This Policy should be read in conjunction with:

- (a) The College's Sexual Harm, Gender-based Violence, Discrimination and Bullying Procedure;
- (b) The College's Community Expectations Agreement;
- (c) Melbourne University's:
 - (i) 'Sexual Misconduct Prevention and Response Policy' (MPF1359) (<https://policy.unimelb.edu.au/MPF1359>);
 - (ii) 'Appropriate Workplace Behaviour Policy' (<https://policy.unimelb.edu.au/MPF1328>);
 - (iii) 'Student Conduct Policy' (<https://policy.unimelb.edu.au/MPF1324>);
 - (iv) 'Child Safety Policy' (<https://policy.unimelb.edu.au/MPF1337>)

16. RELEVANT LAWS

This Policy supports compliance with the following legislation as amended:

- (a) *Age Discrimination Act 2004* (Cth)
- (b) *Australian Human Rights Commission Act 1986* (Cth)

- (c) *Crimes Act 1958* (Vic)
- (d) *Disability Discrimination Act 1992* (Cth)
- (e) *Equal Opportunity Act 2010* (Vic)
- (f) *Fair Work Act 2009* (Cth)
- (g) *National Higher Education Code to Prevent and Respond to Gender-based Violence 2025* (Cth)
- (h) *Occupational Health and Safety Act 2004* (Vic)
- (i) *Occupational Health and Safety Regulations 2007* (Vic)
- (j) *Race Discrimination Act 1975* (Cth)
- (k) *Racial and Religious Tolerance Act 2001* (Vic)
- (l) *Sex Discrimination Act 1984* (Cth)
- (m) *Universities Accord (National Higher Education Code to Prevent and Respond to Gender based Violence) Act 2025* (Cth)

APPENDIX A: DEFINITIONS

Age of Consent	<ul style="list-style-type: none"> • The law in Victoria sets clear age limits for when a person can legally have sex. This is called the Age of Consent. • In Victoria it is unlawful to engage in sexual activity with a child under 12 years old, even if they agree. It is also unlawful to engage in sexual activity with a child between the ages of 12 and 16 if you are more than 2 years older than them (e.g. if you are 19 years old, it is illegal to have sex with a 16 year old in all circumstances).
Associate	<p>Associate means contractors, consultants, volunteers, visiting appointees and visitors at the College (not including conference guests).</p>
Attribute	<p>Means an attribute protected under relevant state or federal laws, including:</p> <ul style="list-style-type: none"> • age; • breastfeeding; • employment activity; • gender identity; • intersex status; • disability; • industrial activity; • lawful sexual activity; • marital status; • parental status or status as a carer; • physical features; • political belief or activity; • pregnancy; • profession, trade or occupation; • race; • religious belief or activity; • sex; (i.e. gender); • sex characteristics; • sexual orientation; • spent conviction or an expunged homosexual conviction; • personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above Attributes.
Bullying	<p>Repeated, Unreasonable Behaviour to a person or group of people that creates a risk to health and safety.</p> <p>Examples:</p> <ul style="list-style-type: none"> • aggressive, hostile or intimidating conduct or behaviour; • belittling or humiliating comments; • spreading rude, inaccurate or malicious rumours; • Image-Based Harm; • teasing, practical jokes; • making vexatious allegations against a student or staff member; • conducting an investigation in a grossly unfair manner; • Victimisation; • practical jokes or initiation; • pressuring someone to behave inappropriately;

	<ul style="list-style-type: none"> • exclusion from College events; • unreasonable work expectations and deadlines; and • unreasonably undermining a person. <p>Reasonable management action undertaken in a reasonable manner towards an employee is not Bullying.</p> <p>The following behaviour <u>does not</u> constitute Bullying:</p> <ul style="list-style-type: none"> • reasonable comment, advice or administrative action (including negative feedback) from an academic or administrative Staff Member on work, academic performance or behaviour; • reasonable management action undertaken in a reasonable manner; • reasonable disciplinary action; • the implementation of organisational change; • the allocation of work in compliance with systems; • conflict or differences of opinion between individuals; and • a single incident of Bullying-style behaviour.
<p>Conduct of Sexual Nature</p>	<p>a</p> <p>Conduct of a Sexual Nature covers a broad range of conduct with a sexual element, from making a sexually explicit joke through to sexual intercourse. A person does not need to intend for an act to be sexual in order for it to be of a sexual nature.</p> <p>Examples of Conduct of a Sexual Nature include, but are not limited to:</p> <ul style="list-style-type: none"> • sexual activity (including sexual intercourse); • touching another person in a sexual manner (e.g. touching genitals, kissing); • staring, leering or unwelcome touching; • sexually suggestive comments, jokes, pranks or hazing rituals; • unwanted invitations to go out on dates or requests for sex; • intrusive questions about a person's private life or body; • unnecessary familiarity, such as deliberately brushing up against a person; • emailing pornography or sexually explicit jokes; • displaying images of a sexual nature around the College; and • communicating content of a sexual nature through social media or text messages (sexting).
<p>Consent</p>	<p>A person consents to a sexual act when they provide <i>free and voluntary agreement</i> to that act.</p> <p>There is valid Consent where the person indicates, either by words or conduct, that they do wish to engage in the sexual act. There is no valid Consent where the person indicates, either by words or conduct, that they do not wish to engage in the sexual activity. This means that if a person is silent, freezes and/or does not offer physical resistance to sexual activity, their Consent cannot be assumed. A person accused of a Sexual Offence is required to demonstrate that they sought and received consent for the sexual act engaged in.</p> <p>Other instances in which there cannot be valid Consent include where:</p> <ul style="list-style-type: none"> • force, harm, or fear of form or harm is used or threatened to be used against a person to coerce them into engaging in the sexual activity; • coercion or intimidation; • abuse of a relationship of authority or trust;

	<ul style="list-style-type: none"> • false or misleading representation about payment for commercial sexual services; • Stealthing; • the person is unlawfully detained (e.g. the person is locked in a room with the other person against their will) • a person is asleep or unconscious; • a person is so affected by alcohol or other drugs, as to be incapable of freely agreeing to the sexual act; or • the person is unable to provide lawful Consent because of their age (see Age of Consent). <p>Lack of Consent is an element common to all Sexual Offences.</p>
Direct Discrimination	<p>Direct Discrimination occurs if a person treats, or proposes to treat, a person with an Attribute unfavourably because of that Attribute.</p> <p>Example: Refusing to employ or offer residence to a person because of their disability.</p>
Disclosure	<p>The provision of information about a person's experience of Prohibited Conduct by a Reporter.</p>
Discrimination	<p>It is unlawful to engage in Direct or Indirect Discrimination on the basis of an Attribute in an area of public life. It includes:</p> <ul style="list-style-type: none"> • discriminatory harassment; • the failure to provide Reasonable Adjustments a person with a disability; • the failure to reasonably accommodate a person's responsibilities as a parent or carer. <p>Motive and intention are irrelevant in determining whether Discrimination has occurred.</p> <p>Discrimination may be unlawful when it occurs in the following areas of public life:</p> <ul style="list-style-type: none"> • employment and employment-related areas; • education; • accommodation; • in the provision of goods and services; • sport; and • by clubs and club members.
Drink Spiking	<p>Adding alcohol or drugs to an individual's drink without their knowledge or consent. Alcohol is the most frequently used drug in Drink Spiking incidents (e.g. pouring extra alcohol into another person's drink without telling them). Regardless of intention, Drink Spiking is a crime in Victoria.</p>
Ethical Bystander	<p>A person who witnesses an event that is disrespectful or harmful and chooses to intervene in a way that is safe and effective.</p>
Formal Report	<p>The provision through formal reporting channels of information about their experience of Prohibited Conduct by a Reporter, which requires the College to consider taking steps beyond the offer and provision of support services, including (without limitation) the commencement of an investigation and/or a disciplinary process in appropriate circumstances.</p>
Gender-based Violence	<p>Any form of physical or non-physical violence, harassment, abuse or threats, based on gender, that results in, or is likely to result in, harm, coercion, control, fear or deprivation of liberty or autonomy.</p>

Image-Based Harm	<p>Image-Based Harm involves creating, distributing and/or threatening to distribute intimate images or videos of others. The following are types of image-based harm:</p> <ul style="list-style-type: none"> • upskirting (taking images or videos up a person’s skirt without their consent), • downblousing (taking images or videos down a person’s top in order to capture an image or video of their breasts or cleavage); • creepshots (taking sexually suggestive images of a person’s clothed body without their consent); • digitally created or digitally altered images; • revenge porn (the sharing of intimate images or videos without consent); and • sextortion (a form of blackmail where a person threatens to share intimate images or videos unless the person the subject of those images or videos gives in to their demands). <p>In Victoria, Image-Based Harm is a crime under various pieces of legislation. It will also be treated as Sexual Harm under this Policy.</p>
Independent Investigator	<p>Independent Investigator means a third party who is external to the College and is experienced in carrying out investigations.</p>
Indirect Discrimination	<p>Where a person imposes, or proposes to impose, a requirement, condition or practice – that has, or is likely to have, the effect of disadvantaging persons with an Attribute, and that is not reasonable.</p> <p>It occurs when a rule, practice or policy appears to be neutral, but has a disproportionate impact on a particular group of people with a particular Attribute.</p>
Intimate Image or Video	<p>Videos, photos or images of a person engaged in a sexual activity, or in a manner or context that is intimate or sexual, including but not limited to:</p> <ul style="list-style-type: none"> • Images or videos depicting the person naked, including, if a person is female or a person identifying as female, images or videos of the breasts of that person; • Images or videos depicting the person without religious or cultural clothing that they would normally wear in public); and • Digitally created or digitally altered images or videos.
Procedure	<p>The Sexual Harm, Gender-based Violence, Discrimination and Bullying Procedure set out at the end of this Policy and any accompanying guidelines that are applied by a College in relation to a Formal Report.</p>
Prohibited Conduct	<p>Sexual Harm, Discrimination, Bullying, Vilification, Victimisation and Gender-based Violence prohibited under this Policy.</p>
Rape	<p>Rape is a type of Sexual Assault that is committed when a person:</p> <ul style="list-style-type: none"> • sexually <i>penetrates</i> another person without their consent, either: <ul style="list-style-type: none"> - while being aware that they are not consenting or might not be consenting - while not giving any thought to whether they are not consenting or might not be consenting; • does not withdraw from penetration after becoming aware that the other person is not consenting or might not be consenting; • makes another person <i>sexually penetrate</i> (or not stop penetrating) them or another person. It does not matter if the person being penetrated consents to the act. <p><i>Sexual penetration</i> means putting any part of the penis into the vagina, anus or mouth. It also means putting any part of an object or another part of the</p>

	<p>body, for example, finger or tongue, into the vagina or anus of another person. The penetration can be just the tip of the finger or penis and can happen for even a very short time. It does not matter if semen comes out or not.</p> <p>Example: penetration of a person's mouth with a penis without the person's consent is rape.</p> <p>Rape is a criminal offence and also amounts to Serious Sexual Harm under this Policy.</p>
Reasonable adjustment	<p>A reasonable measure or action that must be taken by a College to support a Student, Resident or Employee with a disability:</p> <ul style="list-style-type: none"> • participate in education; • take part in a recruitment process; or • perform the genuine and reasonable requirements of a job; <p>and that does not impose an unjustifiable hardship on the College.</p>
Reporter	<p>A Student, Resident, Staff member or Associate of the College who makes a disclosure, complaint or report of Prohibited Conduct.</p>
Resident	<p>Resident means a Resident of a College to which this Policy applies.</p>
Respondent	<p>Respondent means a person against whom allegations of Prohibited Conduct are made.</p>
Sexual Assault	<p>Sexual Assault means intentionally <i>touching</i> another person in a sexual way (e.g. their breasts or genitals with or without clothing) without their Consent. Examples of Sexual Assault include but are not limited to:</p> <ul style="list-style-type: none"> • Rape; • Unwanted oral sex (e.g. use of the tongue or lips on the vagina, penis, scrotum or anus of another person, without their consent); • Unwanted kissing or touching. <p>Sexual Assault is a criminal offence and also amounts to Serious Sexual Harm under this Policy.</p>
Sexual Harassment	<p>Any unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature. For a person to have sexually harassed someone, it has to be reasonable to expect that in the situation, there is a possibility that their behaviour would offend, humiliate or intimidate the other person. Sexual harassment by Students, Residents, Staff and Associates is unlawful.</p> <p>A person's intention or motive is not relevant when determining whether the alleged behaviour constitutes sexual harassment.</p> <p>It is not necessary for the person who has been harassed to have told the harasser that the behaviour was unwelcome for the behaviour to constitute sexual harassment.</p> <p>Examples of behaviour that could constitute sexual harassment include, but are not limited to:</p> <ul style="list-style-type: none"> • comments about a person's private life or the way they look; • sexually suggestive gestures or non-verbal behaviour, such as leering or staring; • sexually suggestive comments or jokes; • Sexual Assault, Rape, Stalking or creating or distributing Intimate Videos or Images without consent; • displaying pornographic or sexually explicit material (posters, screen savers, photos, calendars or objects);

	<ul style="list-style-type: none"> • unwelcome physical contact, gestures or other non-verbal communication (including brushing up against someone, touching, fondling or hugging; • sexually explicit emails, SMS messages, comments, jokes or conversations; • sexual insults or taunting; • asking someone for sex; • repeated requests to go out; • making promises or threats in return for sexual favours; • sexual orientation-based insults or taunts; • sexually explicit humour on posters; • nudity; • offensive posts on Facebook, College intranet, or other social networking sites. <p>Sexual Harassment is unlawful and also amounts to Sexual Harm under this Policy.</p>
Serious Sexual Harm	<p>Serious Sexual Harm is Sexual Harm that is also a Sexual Offence. Serious Sexual Harm may result in immediate dismissal, removal or expulsion from a College.</p>
Sexual Harm	<p>Sexual Harm encompasses a broad range of misconduct of a sexual nature and includes but is not limited to:</p> <ul style="list-style-type: none"> • Sexual Assault (which includes Rape, Unwanted Oral Sex and Stealthing); • Sexual Harassment; • Image-Based Harm; • Stalking; • Drink Spiking; • Any other criminal behaviour of a sexual nature; • Any other Conduct of a Sexual nature without consent. <p>Some forms of Sexual Harm are criminal offences. All forms of Sexual Harm constitute a breach of this Policy.</p>
Sexual Offence	<p>Sexual Offences are criminal acts that involve sexual intercourse or other acts of a sexual nature and include:</p> <ul style="list-style-type: none"> • Rape; • Sexual Assault; • Image-Based Harm; • Stalking; • Drink Spiking; • Stealthing; • Any other criminal conduct of a sexual nature. <p>Lack of Consent is an element of all Sexual Offences. Sexual Offences will also be treated as Serious Sexual Harm under this Policy and may be grounds for immediate dismissal or expulsion from a College.</p> <p>Note: Sexual Harassment is unlawful but it is not a criminal offence.</p>
Staff or Staff Member	<p>An employee of the College.</p>
Stalking	<p>Engaging in a course of conduct with the intention of causing physical or mental harm to the victim, including self-harm, or of arousing apprehension or fear in the victim for his or her own safety or that of any other person.</p>

	<p>Stalking includes a broad range of conduct, including technology-based behaviours. It includes but is not limited to:</p> <ul style="list-style-type: none"> • following the victim; • contacting the victim (by any means); • publishing information on the internet; • making threats; • keeping the victim under surveillance; and • entering or loitering near the person's residence or place of work. <p>Stalking is a criminal offence and, depending on the circumstances, may be treated as Sexual Harm under this Policy and/or as bullying and harassment under this Policy.</p>
Stealthing	<p>The practice of one person not using, tampering with or covertly removing a condom during a sexual act with another person, when consent has only been provided by the other person to condom-protected sex.</p> <p>Stealthing is a criminal offence and will be treated as Sexual Harm under this Policy.</p>
Student	A student of a College to which this Policy applies.
University	The University of Melbourne.
Unreasonable Behaviour	<p>Behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine, threaten, or intimidate another person.</p> <p>Examples include but are not limited to:</p> <ul style="list-style-type: none"> • aggressive or intimidating conduct or behaviour; • belittling or humiliating comments; • spreading rude, inaccurate or malicious rumours; • teasing, practical jokes; • making vexatious allegations against a worker; • conducting an investigation in a grossly unfair manner; • Victimisation; • practical jokes or initiation; • pressuring someone to behave inappropriately; • exclusion from College events; • unreasonable work expectations and deadlines; and • unreasonably undermining a person.
Unwanted oral sex	<p>The insertion of the penis into the mouth of another person, or use of the tongue or lips on the vagina, penis, scrotum or anus of another person, without their consent.</p> <p>In Victoria, unwanted oral sex may amount to the offence of Rape or Sexual Assault depending on the facts and circumstances of the particular case. Regardless, it will be treated as Sexual Harm under this Policy.</p>
Victimisation	<p>Subjecting (or threatening to subject) another person to a detriment (which can include threats, intimidation, harassment, humiliation, coercion and denigration) because that other person has:</p> <ul style="list-style-type: none"> • made a Disclosure or Formal Report of Prohibited Conduct; • been involved in a Disclosure or Formal Report in relation to Prohibited Conduct (including the relevant Procedure), or • because the first person thinks the other person intends to make a Disclosure or Formal Report or be involved in a Disclosure or Formal

	<p>Report in relation to Prohibited Conduct (including the relevant Procedure).</p> <ul style="list-style-type: none"> • Examples: • Resident sending rude or aggressive notes to another Resident and their friends because that person has made a Disclosure or Formal Report of Prohibited Conduct; and • A supervisor humiliating a Staff Member because that Staff Member gave evidence in support of a colleague in relation to a Disclosure or Formal Report against the supervisor. <p>Victimisation is unlawful and will be treated as a breach of this Policy.</p>
Vilification	<p>Conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of another person or class of person on the grounds of their race or religion.</p> <p>Examples:</p> <ul style="list-style-type: none"> • publishing claims that a racial or religious group is involved in serious crimes without any proof; • repeated and serious verbal or physical abuse about the race or religion of another person; or • encouraging people to hate a racial or religious group using flyers, stickers, posters, speech or publication, or using websites or email. <p>Vilification is unlawful and will be treated as a breach of this Policy.</p>
Visitor	<p>A visitor to the Colleges' premises or officially run College event (not including conference guests)</p>

APPENDIX B: STAFF ROLES AND RESPONSIBILITIES

In addition to the expected behaviours in section 5, Staff Members of St Mary's College have the following roles and responsibilities.

All Staff

All Staff have a responsibility to:

- monitor Residents, Students, Staff and associates / the working, living and social environment at the College to ensure that Expected Behaviours are maintained at all times;
- promote the Policy and Procedure within their work area and the College community;
- take prompt action if they observe or are informed about behaviour that may breach this Policy, by reiterating that any behaviour in breach of this Policy is unacceptable, may result in disciplinary action, and must immediately cease,
- notify the Safe Coordinator and/or Principal of any concerns of non-compliance with this Policy and/or Procedure;
- support Students, Residents, Staff and Associates to report their concerns of Prohibited Conduct;
- refer persons with concerns about Prohibited Conduct to a Safe Coordinator, Safe Contact Person and/or External Adviser for support, information and advice (as appropriate), and inform the Safe Coordinator that they have done so;
- model appropriate behaviour and lead by example;
- ensure that relationships with Students, Staff, Residents and Associates are professional, trusting and respectful;
- be mindful at all times of the power imbalance that exists between Staff and Students / Residents;
- take all reasonable steps to avoid and resolve any possible, perceived or actual conflicts of interest in dealing with Students and Residents;
- pay proper regard to protecting the welfare and wellbeing of Students and Residents.

Staff and Associates must not:

- initiate, cultivate or encourage relationships with students or Residents that have the potential to compromise the welfare or wellbeing of the Student or Resident;
- engage in intimate relationship or sexual activity with a Student or Resident.

PRINCIPAL

The Principal is responsible for:

- prioritising the agency of the person who experienced Prohibited Conduct by involving them in decisions about the College's response to their Disclosure or Formal Report;
- balancing the needs and wishes of the person who experienced Prohibited Conduct against the obligation to provide a safe environment for all Students, Residents, Staff and Associates;

- ensuring that Staff are appropriately trained and know how to respond to Disclosures of Prohibited Conduct;
- nominating representatives to relevant committees (i.e. the wider Deans and Deputies Respect and Culture Sub-Committee) to develop an action plan to better protect Students, Residents, Staff and Associates from the behaviour prohibited by this Policy;
- Implementing and maintaining an anonymous reporting framework so that de-identified data on Prohibited Conduct can be recorded and reported.

SAFE COORDINATORS

Safe Coordinators are experienced Staff Members appointed by each College to support the College's response to Prohibited Conduct. Safe Coordinators are responsible for:

- prioritising the agency of the person who experienced Prohibited Conduct by involving them in decisions about the College's response to their Disclosure or Formal Report;
- balancing the needs and wishes of the person who experienced Prohibited Conduct against the obligation to provide a safe environment for all Students, Residents, Staff and Associates;
- ensuring that the College provides ongoing support and guidance to Reporters and Respondents;
- ensuring the appropriate and timely appointment of Safe Contact Persons and External Advisers;
- providing training for their College community, Safe Contact Persons on preventing and responding to Prohibited Conduct; and
- advising their College on policies, programs, initiatives and strategies recommended to enhance legislative compliance and promote student and Staff access, equity and diversity.

SAFE CONTACT PERSONS

Each College recruits, trains, and supports experienced Staff Members (both academic and administrative) to become Safe Contact Persons, and if required, suitable residential tutors to the role of Safe Contact Persons.

Safe Contact Persons are responsible for:

- providing information and advice to Students, Residents, Staff and Associates in relation to Prohibited Conduct and their options for making Disclosures and Formal Reports;
- ensuring that support is provided to Reporters of Prohibited Conduct, as well as Respondents to allegations of Prohibited Conduct;
- being involved in the process of handling Disclosures as directed by the Safe Coordinator.

EXTERNAL CONSULTANT

The External Consultant, appointed by the College Heads, assists the Colleges to implement the Policy and Procedure by:

- preparing educational materials, organising and conducting training programs;
- assisting the Safe Coordinators, Safe Contact Persons, External Advisers and Mediators and College Heads as required by the Head or Safe Coordinator in handling Formal Reports of Prohibited Conduct; and

- making recommendations on policies, programs initiatives and strategies to enhance legislative compliance and promote student and Staff access, equity and diversity.

EXTERNAL ADVISORS

External Advisors may assist the College in implementation of the Policy and Procedure by:

- prioritising the agency of the person who experienced Prohibited Conduct by involving them in decisions about the College's response to their Disclosure or Formal Report;
- balancing the needs and wishes of the person who experienced Prohibited Conduct against the obligation to provide a safe environment for all Students, Residents, Staff and Associates;
- providing advice to Students, Residents, Staff and Associates in relation to Prohibited Conduct;
- providing support to Reporters of Prohibited Conduct, and Respondents to allegations of such conduct;
- be involved in the process of handling Formal Reports as directed by the Safe Coordinator; and
- managing the Formal Report and investigation process.

APPENDIX C: COLLEGE CONTACTS

SAFE

Sexual Harm Prevention

Advice and Advocacy

Fair Treatment

Equality and Equity

SAFE COORDINATOR

- Dieni Powell

INTERNAL SAFE CONTACT PERSONS

- Brenda Renfrew, Kathleen Flanagan, Etienne Paolinetti

PRINCIPAL

- Dr Darcy McCormack

EXTERNAL CONSULTANT TO THE COLLEGES

- Skye Rose, Practice Leader, Moores: srose@moores.com.au, (03) 9843 0418 or 0410 599 989.

EXTERNAL ADVISORS

- The College has engaged an external advisor who meets the requirements of the Code in relation to experience and expertise in responding to Formal Reports and conducting investigations: Catherine Gow 0438 177 818.



ST MARY'S COLLEGE
THE UNIVERSITY OF MELBOURNE

Sexual Harm, Gender-based Violence, Discrimination and Bullying Procedure

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1. OVERVIEW

- (a) This Procedure sets out the way that Students, Residents, Staff and Associates can make a Disclosure or Formal Report about Prohibited Conduct to the College, and how the College will respond.

The Procedure must be read in line with the Sexual Harm, Gender-based Violence, Discrimination and Bullying Policy (**Policy**).

Definitions of key terms in this Procedure are set out in **Appendix A** of the Policy. All defined terms in the Sexual Harm, Gender-based Violence, Discrimination and Bullying Policy and Procedure use title case.

- (b) Disclosures of Prohibited Conduct can be made to the College or University. A Formal Report can be made to the College, University or an external body. Reporters may make a Disclosure or Formal Report through whichever channel they choose.
- (c) The College aims to respond to Disclosures and resolve concerns raised in Formal Reports as quickly as possible.
- (d) The College recognises that the conduct of a Student, Resident, Staff Member or Associate may be regarded on a scale from minor to extremely serious. For that reason, the processes to be applied in determining whether a breach has occurred, and the consequences of a breach, are matters for the discretion of the College, in consultation with an External Consultant and/or External Advisor (as required).
- (e) The Safe Coordinator will take steps to ensure that ongoing support is provided to the person who experienced the Prohibited Conduct (and any other affected parties including both the Reporter and Respondent), and that they are regularly consulted and informed about the College's response.

2. REPORTING TO THE COLLEGE

- (a) Students, Residents, Staff and Associates are encouraged to notify the College of actual or suspected Prohibited Conduct as soon as possible so that the College can:
- (i) provide support and pastoral care; and
 - (ii) take steps to prevent immediate or ongoing risks to the health, safety or wellbeing of any person at the College.
- (b) Before making a Formal Report of Prohibited Conduct, a person may wish to seek guidance from a Safe Contact Person, who can provide them with general information about their options and the supports available, or a Safe Coordinator.
- (c) Disclosures or Formal Reports of Prohibited Conduct may be made verbally or in writing to a Safe Coordinator, who has received training to respond to Prohibited Conduct. The Reporter can indicate whether they would like to make a Disclosure only, and can make a Formal Report at any time, including at the time of, or following a Disclosure of Prohibited Conduct. Once a Formal Report is made, the SAFE Coordinator may involve the External Consultant or an External Advisor in determining further steps to be taken in response to the Formal Report and any risk assessment.
- (d) If the Reporter does not feel comfortable speaking with the Safe Coordinator for any reason, they may raise their concern with the Principal. If the concern relates to the Principal, the Report should be made to the Chair of the College Council.
- (e) There is no time limit for a person to make a Disclosure or Formal Report about Prohibited Conduct to the College under the Policy or Procedure. However, the

College's ability to effectively respond to and prevent Prohibited Conduct may diminish over time.

- (f) A Reporter may elect to make a Disclosure or Formal Report to the University instead of the College. The response will be led by the University and the College will cooperate with the University in its response, in accordance with 5.2.

3. ANONYMOUS REPORTING

- (a) The College has implemented an anonymous reporting framework to enable Students, Residents, Staff and Associates to make an anonymous Disclosures of Prohibited Conduct covered by this Policy.
- (b) The College collates and analyses data on anonymous Disclosures to monitor the prevalence of Prohibited Conduct in connection with the Colleges, as well as trends, patterns of behaviour, and opportunities for further education and training.
- (c) Because Disclosures may be anonymous, the College will rarely be able to take action in relation to an anonymous Disclosure. If a person would like action to be taken in relation to an incident of Prohibited Conduct, they are encouraged to make a Formal Report in relation to the incident to the College, the University, or an External Body.

4. REPORTING TO AN EXTERNAL BODY

- (a) Students, Residents, Staff and Associates may seek independent guidance from and/or make a Report or complaint about Prohibited Conduct with an external body at any time.
- (b) Reports of Sexual Harm may be made by any person to:
 - (i) Victoria Police: Melbourne North Police Station (open 24 hours), 36 Wreckyn Street, North Melbourne. Phone: (03) 8379 0800.
 - (ii) Victoria Police Sexual Offences and Child Abuse Investigation Team: Phone (03) 8690 4056.
- (c) Students, Residents, Staff and Associates can also make claims of Prohibited Conduct including Discrimination and Sexual Harassment in areas such as education, employment, accommodation, goods and services, clubs or sport to the:
 - (i) Victorian Equal Opportunity and Human Rights Commission: <http://www.humanrightscommission.vic.gov.au/>. Phone: 1300 292 153.
 - (ii) Australian Human Rights Commission: <https://www.humanrights.gov.au/>. Phone: (02) 9284 9600.
- (d) Employees and Contractors of the College can also make a complaint or report a concern to:
 - (i) Fair Work Commission, <https://www.fwc.gov.au/>. Phone: 1300 799 675.
 - (ii) WorkSafe Victoria: <http://www.worksafe.vic.gov.au/>. Phone: (03) 9641 1444 or 1800 136 089.
- (e) Students and Staff Members of the University may lodge a complaint under the University's policies and procedures if their concern relates to another student or staff member of the University.
- (f) If a Student, Resident, Associate or Staff Member makes a complaint or report to an external body, it may be appropriate for the College to suspend this Procedure while

that process is ongoing (e.g. if the matter involves criminal allegations, the College should seek approval from Victoria Police before proceeding with its response to the Formal Report). However, the College may still take steps to address and prevent Prohibited Conduct, including providing support in response to a Disclosure.

- (g) If a person needs guidance on the most appropriate entity to contact about their concerns, they should speak to the Safe Coordinator or Safe Contact Person. Where the Safe Coordinator is unable to assist, the External Consultant or an External Advisor in **Appendix C** may be able to provide that assistance.

5. RESPONDING TO DISCLOSURES AND FORMAL REPORTS OF PROHIBITED CONDUCT

5.1 INITIAL RESPONSE

Where the College receives Disclosures or Formal Reports by or about a Resident, Student, Staff member or Associate, it will:

- (a) take all necessary immediate action proportionate to the risk arising from the Disclosure to ensure the safety of the Reporter, Residents and Staff. This may include relocation of the Respondent to alternative accommodation and/or arranging available urgent support services for the Reporter and Respondent;
- (b) For Disclosures or Formal Reports involving Gender-based Violence, undertake a risk assessment within 48 hours of receiving the Disclosure or Formal Report or immediately when required, that:
 - (i) takes into account and seriously considers the views of the Reporter; and
 - (ii) determines safety measures to be implemented to protect the safety of the Reporter and other Residents, which may include relocation of the Respondent to alternative accommodation;
 - (iii) within 48 hours of a Disclosure or Formal Report, develop and implement a support plan collaboratively with, and as desired by, the Reporter; and
 - (iv) within 48 hours of a Disclosure or Formal Report, develop and implement a support plan collaboratively with, and as desired by, the Respondent;
- (c) For all Disclosures or Formal Reports of Prohibited Conduct, the College will:
 - (i) once in receipt of a Disclosure, seek confirmation of whether the Reporter would like to take further action through making a Formal Report in relation to the incident;
 - (ii) when conducting a risk assessment, developing a support plan for the Reporter or Respondent, and in the course of its response to a Formal Report, the College will have regard to intersectionality when implementing this Procedure, including making any adjustments to supports provided, or any steps in the investigative process to take account of the differing experiences for women, First Nations people, culturally and linguistically diverse communities, people with disability and people of diverse sexual orientation and gender identity; and
- (d) where the College determines it is necessary to protect the safety of Residents and after seeking and considering the views of the Reporter, the College may permanently remove from the College a person who has had an allegation of Sexual Harm or Gender-based Violence substantiated against them.

5.2 DISCLOSURES AND FORMAL REPORTS OF GENDER-BASED VIOLENCE INVOLVING THE UNIVERSITY

Consistent with the Code, the College recognises that a Reporter may elect that the University leads the response to a Disclosure or Formal Report of Gender-based Violence that occurred in Student Accommodation or at an event organised by the College, including supports, and any investigation and/or disciplinary process. If the Reporter elects the University to lead the response, the College will

- (a) co-operate fully with the University in leading the response to the Disclosure or Formal Report, including information sharing; and
- (b) implement any outcomes decided by the University.

5.3 DISCLOSURES AND FORMAL REPORTS INVOLVING MULTIPLE COLLEGES

- (a) Where a Disclosure or Formal Report involves a Student, Resident, Staff or Associate from more than one College, the Safe Coordinator and/or Head of each College will confer to determine the best process to respond to the Disclosure or Formal Report. Generally, the College with the greatest degree of connection to the allegations will take responsibility for managing the Disclosure or Formal Report. The wishes of the Reporter will be considered when deciding which College will take responsibility for leading a response. The College's Privacy Policy will apply to any personal information disclosed by the College to another College.
- (b) In some circumstances, it may be necessary to seek advice about the handling of the complaint from the External Consultant or engage the External Advisor to manage the response, and/or engage the University in the response.

5.4 DISCLOSURES AND FORMAL REPORTS ABOUT THE SAFE COORDINATOR OR PRINCIPAL

- (a) Where a Disclosure or Formal Report concerns the Safe Coordinator, the Principal will act as the Safe Coordinator for the purpose of the Policy and Procedure and assume the role and responsibilities of the Safe Coordinator, including briefing the External Consultant or an External Advisor about a Formal Report.
- (b) Where the Disclosure or Formal Report concerns the Principal, the Chair of the College Council (or other nominated Council Member) will act as Safe Coordinator and Principal for the purpose of the Policy and Procedure and assume their roles and responsibilities, including briefing the External Consultant or an External Advisor about a Formal Report.
- (c) The Safe Coordinator will not deal with Disclosures or Formal Reports about their own behaviour or the Principal.

5.5 DISCLOSURES AND FORMAL REPORTS INVOLVING STUDENTS OR RESIDENTS

- (a) Where a Disclosure or Formal Report of Prohibited Conduct involves a Student or Resident, the College should consider whether the alleged conduct breaches the College's values, Code of Conduct and Terms of Residence.
- (b) Nothing in the Policy or Procedure prevents a College from responding to Disclosures or Formal Reports of Prohibited Conduct as a breach of the College's values, Code of Conduct or Terms of Residence without following an investigation or show cause process.

5.6 PRECAUTIONARY MEASURES

- (a) The College may put in place temporary or permanent precautionary measures in response to an alleged or anticipated incident of Prohibited Conduct to protect the health, wellbeing and safety of all Residents, Students, Staff and Associates.
- (b) The Safe Coordinator will consult with the Principal or their delegate about precautionary measures. Precautionary measures may include (but are not limited to):
 - (i) restricting the Respondent's access to the Colleges' premises or property;
 - (ii) suspending a person from the College or from specified activities or events;
 - (iii) relocating the Respondent (or the person who experienced the Prohibited Conduct, on their request) to minimise interactions between the Respondent and the person who experienced Prohibited Conduct.
- (c) Precautionary measures are not a penalty or sanction

In the case of Serious Sexual Harm or where there is a serious, immediate or ongoing risk to the health, safety or wellbeing of any person in the College community, it may be appropriate for the College to terminate the residence of the Respondent. The College should consider the terms of any employment or residential agreement and seek advice from the External Consultant before terminating the employment or residence of a Staff Member.

5.7 IMMEDIATE STEPS TO SUPPORT THE PARTIES

The College will respond to all Disclosures of Prohibited Conduct by taking steps to support and protect relevant parties, with a focus on the person who has experienced the Prohibited Conduct. This may include:

- (a) providing referrals to medical or support services, or access to internal or external counselling services;
- (b) changes to work / study timetable and residential arrangements at the College;
- (c) changes to supervision, reporting or tuition arrangements;
- (d) providing additional or alternative academic support, including support with applying for special consideration;
- (e) granting leave to attend support services;
- (f) assistance to overcome any cultural or linguistic barriers that may exist;
- (g) provision of support services targeted towards people with particular identities, including but not limited to, First Nations communities, culturally and linguistically diverse communities, people with disability and people of diverse sexual orientation or gender identity; and
- (h) if appropriate, providing assistance to a person who has experienced Prohibited Conduct make a police report, or apply for a Personal Safety Intervention Order to prevent the Respondent's contact with them.

5.8 CONSIDERATIONS WHEN RESPONDING TO DISCLOSURES AND FORMAL REPORTS OF PROHIBITED CONDUCT

- (a) The College will take all reasonable steps to support the Reporter, recognising that the first disclosure may be the most important and how it is received may influence whether they make a Formal Report.
- (b) Wherever possible, the Safe Coordinator or Principal will provide written acknowledgement of the Disclosure of Prohibited Conduct within two (2) business days of receiving it, and will offer support and explain the process for making a Formal Report.
- (c) In considering how to respond to a Disclosure or Formal Report made to the College, the College will consider:
 - (i) the needs and wishes of the person who has experienced the Prohibited Conduct;
 - (ii) the College's obligations and duties, including in relation to occupational health and safety, its duty of care, and to Staff under the *Fair Work Act 2009* (Cth);
 - (iii) whether there is a risk to the health or safety of the person who experienced the Prohibited Conduct, or any other person;
 - (iv) whether the Disclosure or Formal Report relates to a person under the age of 18;
 - (v) if a Formal Report is made, what investigative or other actions, if any, are available to the College;
 - (vi) whether two or more people name the same Respondent in separate Disclosures or Formal Reports or the College is concerned the Disclosure or Formal Report may suggest a pattern of behaviour by the Respondent;
 - (vii) whether it is required to communicate the nature of the Disclosure or Formal Report to other authorities;
 - (viii) any relevant processes or sanctions that are available to the College under the terms of any contract between the Respondent and the College; and
 - (ix) procedural fairness to the Respondent.
- (d) None of these factors are determinative

If the College makes a report to the police because it considers that there is a serious or ongoing risk to the health, safety or wellbeing of any person, the College will take reasonable steps to consult with the Reporter to ensure that they know when and why the police will be notified, and take all reasonable steps to support the Reporter through that process.

5.9 ADDRESSING CONCERNS WITH THE RESPONDENT

- (a) Having regard to the factors in section 5.8 above, it may be appropriate for the College to advise the Respondent of the concerns raised about their conduct.
- (b) This process may be appropriate where:
 - (i) the Reports of Prohibited Conduct are of a general nature;

- (ii) the Reporter / person who experienced the Prohibited Conduct does not wish to make a Formal Report or participate in any processes proposed by the College to address the behaviour in a timely manner.
- (c) Where the College considers that it is appropriate to discuss the concerns of Prohibited Conduct directly with the Respondent, it will:
 - (i) take reasonable steps to notify the Reporter of their proposal to do so, and the likely timing of that communication; and
 - (ii) de-identify concerns that will be communicated to the Respondent (where consent has not been provided to reveal the identity of the Reporter / person who experienced the Prohibited Conduct);
 - (iii) remind the Respondent of their obligations not to engage in Prohibited Conduct and / or breach the Policy, and the consequences of doing so in future;
 - (iv) encourage the Respondent to reflect on their behaviour;
 - (v) consider whether to engage in other restorative processes, provided that the College has consulted with the Reporter, has their consent and is satisfied that they will not cause further harm to the Reporter.

5.10 SHOW CAUSE PROCESS

- (a) Without limiting the options available to respond to Formal Reports of Prohibited Conduct, the College may put allegations of Prohibited Conduct to a Respondent as part of a “show cause” or disciplinary process. As part of that process, the College may provide the Respondent with details of the allegations, and invite the Respondent to respond to the concerns and explain why the College should not take disciplinary action against them. Where the Reporter has not consented to their identity being revealed, the College will endeavour to de-identify the allegations to the greatest extent possible.
- (b) The College will then consider whether it should take any action against the Respondent (see sections 6 and 7 of the Policy, and section 6 of the Procedure).

5.11 INVESTIGATIONS

- (a) The College has the discretion to conduct an investigation to a Formal Report of Prohibited Conduct at any stage. An investigation involves collecting information about the allegations and assessing whether the alleged conduct occurred on the balance of probabilities.
- (b) As part of a Formal Report, a person can request that the College investigate Prohibited Conduct verbally or in writing to the Safe Coordinator or Principal. The request should include details of the incident(s) and any supporting information.
- (c) The person who has experienced the Prohibited Conduct will generally influence the process that will be followed. In some circumstances, the seriousness of the allegations may mean that it is necessary for the College to investigate the allegations (e.g. to prevent serious risks to health, safety or wellbeing), irrespective of the wishes of the person who experienced the harm. For this reason, the College may initiate or progress an investigation without the involvement of the person who experienced Prohibited Conduct. This may involve de-identifying details of the Reporter where it is possible to do so.
- (d) If the Safe Coordinator or Principal considers that an investigation is appropriate in response to a Formal Report, they will appoint an independent investigator. If the

investigation relates to the Principal, the Chair of the College Council will assume this role.

- (e) Further to section 5.5, if a College considers it appropriate for the safe and efficient conduct of an investigation, it may:
 - (i) direct a person not to carry out their duties or attend certain areas (including College events); and/or
 - (ii) provide alternative duties, tasks or accommodation to a Respondent (or to the person who experienced the Prohibited Conduct on their request).
- (f) On completion of an investigation, the College will notify the Reporter and Respondent of the outcome in writing (which will generally involve confirming whether the allegations were proven).
- (g) The College will not provide any party with access to or a copy of any investigation report.
- (h) The College will then consider whether it should take any action against the Respondent (see sections 6 and 7 of the Policy, and section 6 of the Procedure).

5.12 RESTORATIVE PRACTICES

- (a) In some circumstances, it may be appropriate for the College to respond to Prohibited Conduct by facilitating a mediation, providing coaching or implementing other restorative practices to enable the parties to repair relationships that may have been damaged and enable people to move forward following a Disclosure or Formal Report. If a Reporter would like to participate in a restorative practice, the College may require that the Respondent participate in that restorative practice.
- (b) A mediation is a process where a neutral third party attempts to assist the parties to resolve a dispute or concern by mutual agreement.
- (c) The mediation or other facilitated conversation as part of any restorative practices, is conducted without prejudice to any other actions relating to or that might arise from the allegation or Formal Report.
- (d) Because of the serious nature of Sexual Harm, a mediation will only occur in those circumstances if:
 - (i) the person who experienced the Sexual Harm is willing to be identified to the Respondent;
 - (ii) the person who experienced the Sexual Harm requests the mediation; and
 - (iii) all parties agree to the mediation voluntarily.
- (e) If the Safe Coordinator or Principal considers that a mediation is appropriate, they will appoint an appropriately qualified person to conduct the mediation, which may include an External Advisor. The role of the mediator is to assist the parties to reach a mutually agreed resolution.
- (f) The Respondent will be provided with details of the concerns or allegations, but will not be provided with any Report. All parties will be provided with the opportunity to seek support from a Safe Contact Person.
- (g) The mediator will invite the person who experienced the Prohibited Conduct and the Respondent to meet with the mediator either together or separately or both. The

mediator will only arrange a joint meeting if the person who experienced the Prohibited Conduct is comfortable with this.

- (h) The role of the mediator is to assist the parties to reach a mutually agreed resolution. It is not the role of the mediator to make a formal finding. The mediator will advise the Safe Coordinator of the outcome of the mediation.
- (i) The parties may both have a support person attend the mediation, but may not have a legal representative or advocate.
- (j) If the mediation does not proceed or is unsuccessful, the Safe Coordinator:
 - (i) will ensure that the parties are offered support;
 - (ii) will consider alternatives to respond to the Formal Report;
 - (iii) may refer the parties to their respective Safe Contact Persons to discuss further options.

5.13 WITHDRAWN FORMAL REPORTS

- (a) Where a Reporter withdraws their Formal Report or does not wish to participate in any other process in relation to the Formal Report, the College:
 - (i) will retain the details of the Formal Report in accordance with section 11 of the Policy;
 - (ii) notify the Reporter of any proposed action against the alleged Respondent;
 - (iii) offer the Reporter ongoing support; and
 - (iv) confirm the above in writing to the Reporter.
- (b) A Reporter who has withdrawn their Formal Report may ask the College to reinstate the Report at any time.

6. POSSIBLE OUTCOMES

- (a) The College may take action (whether disciplinary or non-disciplinary) in respect of Prohibited Conduct and / or breaches of this Policy, Procedure, and the Community Expectations Agreement.
- (b) Relevant considerations and possible outcomes are outlined in sections 6 and 7 of the Policy.
- (c) Where the Respondent is a member of Staff, the College may consider it appropriate to undertake a show cause process or investigation into the allegations of Prohibited Conduct before taking disciplinary action. The College may seek independent advice from the External Consultant or an External Advisor on its proposed response to the Reports about Staff Members before proceeding.
- (d) The College will endeavour to finalise Formal Reports within 45 business days.
- (e) Unless the reporter requests otherwise, the College must notify them in writing of:
 - (i) the outcome of any disciplinary process, including the decision and, if relevant, sanctions;
 - (ii) reasons for the outcome; and

- (iii) rights to make an internal and/or external complaint, including to the National Student Ombudsman;
 - (iv) any appeals that have been lodged.
- (f) The Respondent may appeal a disciplinary decision. The College will ensure that:
- (i) All appeals relating to Gender-based Violence are finalised within 20 business days, or as soon as practicable for all other appeals; and
 - (ii) Unless the Reporter requests otherwise, they will be notified of the outcome of the appeal on the same day as the Respondent.

7. PROCEDURAL FAIRNESS

The College is required to provide parties with procedural fairness. The principles of procedural fairness apply to the Procedure. Generally, this means that the College will not make a decision that could adversely affect a person unless it has given that party an opportunity to respond.