



SEXUAL HARASSMENT AND SEX BASED HARASSMENT POLICY

1. PURPOSE

- 1.1 University College (the College) recognises that residents and workers at the College have the right to be treated with respect and dignity, and to live and work in an environment that is free from sexual harassment and sex based harassment. The College is committed to providing an environment that is safe, inclusive and respectful, and promotes the wellbeing and thriving of their residents and workers
- 1.2 The College expressly prohibits sexual harassment and sex based harassment. It is unacceptable and unlawful and will not be tolerated at the College. Residents and workers who perpetrate unlawful sexual or sex based harassment may be individually liable for unlawful conduct.
- 1.3 It is the obligation and responsibility of the College and every resident and worker at the College to seek to ensure that the College is free from sexual harassment, sex based harassment, sex discrimination and victimisation.
- 1.4 This Policy sets out what constitutes sexual harassment and sex based harassment under anti-discrimination laws and outlines the College's commitment and approach to responding to reports of this type of conduct. It details what you can do if you are a worker or resident at the College and you experience sexual harassment and sex based harassment, and the procedure the College has implemented to seek to ensure that reports are dealt with appropriately and as soon as practicable.

2. SCOPE

- 2.1 This Policy applies to all residents and workers of the College.
- 2.2 Any reports of sexual harassment or sex based harassment will be treated seriously by the College and dealt with as considered appropriate in each case. Disciplinary action may be taken against anyone found to have engaged in conduct amounting to sexual harassment or sex based harassment, or who has otherwise breached this Policy.
- 2.3 This Policy responds to the College's legal obligations as an accommodation provider and employer under anti-discrimination laws to eliminate sexual harassment as far as possible.

- 2.4 Sexual harassment and sex based harassment have specific meanings and application under relevant discrimination laws. Sexual harassment and sex based harassment are only prohibited in certain areas of public life (i.e. education, employment, accommodation etc.). Therefore, not all inappropriate behaviour or conduct of a sexual nature will constitute unlawful sexual harassment or sex-based harassment under discrimination laws. For example, conduct that is perpetrated by a stranger or member of the public or between students that are not workers or residents at the College might not fall within the scope of this Policy.
- 2.5 The College will respond to complaints of inappropriate behaviour or sexual conduct that are not covered by this Policy in its discretion and as required by applicable laws. If applicable, the College may deal with complaint under another applicable policy or refer the complaint to a relevant authority.

3. WHAT IS SEXUAL HARASSMENT

- 3.1 Sexual harassment is unlawful under the *Sex Discrimination Act 1984* (Cth) and State and Territory anti-discrimination legislation.
- 3.2 A person sexually harasses another if they:
- (a) make an unwelcome sexual advance; or
 - (b) make an unwelcome request for sexual favours; or
 - (c) engage in any other unwelcome conduct of a sexual nature;
- in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.
- 3.3 Conduct of a sexual nature includes:
- (a) subjecting a person to any act of physical intimacy;
 - (b) making, orally or in writing, any remark or statement with sexual connotations to a person or about a person in their presence; and
 - (c) making any gesture, action or comment of a sexual nature in a person's presence.
- 3.4 Sexual harassment may occur in a single incident or a series of incidents and can occur between residents and workers at the College. Sexual harassment may occur by way of conduct that is not directed towards a particular person but which creates an uncomfortable culture or atmosphere at the College or which is seen or overheard by a person who is offended, humiliated or intimidated.
- 3.5 Sexual harassment may occur onsite at the College or offsite at an event in connection with the College. For example, conduct at or in connection with College social functions or work even if not on College premises, may constitute sexual harassment.

- 3.6 Consensual conduct that occurs in friendships and consensual relationships may not amount to sexual harassment. Conduct must be unwelcome to constitute sexual harassment. However, there are many reasons why someone may not make it clear that conduct is unwelcome including a power imbalance, gender inequality or fear for their job etc. and hence any offensive, humiliating, intimidating, threatening or sexual conduct at the College is inadvisable and may constitute sexual harassment. Just because someone does not object to inappropriate behaviour at the time, does not mean that they are consenting to the behaviour.
- 3.7 The Fair Work Commission also has powers to make orders to stop the sexual harassment of a worker as part of its anti-bullying jurisdiction.

4. EXAMPLES OF SEXUAL HARASSMENT

- 4.1 Examples of conduct that may constitute sexual harassment are set out below:
- (a) sending or forwarding an email with any sexually related content including pictures or jokes;
 - (b) displaying any screensaver, postcard, calendar or picture of a sexual nature;
 - (c) accessing, downloading or storing sexually explicit material;
 - (d) telling a joke of a sexual nature, or insulting, taunting or making any comment of a sexual nature;
 - (e) inappropriate SMSs or advances on social media sites;
 - (f) commenting on or asking intrusive or inappropriate questions about someone's personal life or body;
 - (g) making persistent unwanted requests to go on a date;
 - (h) making requests or pressuring for sex;
 - (i) making offensive hand or body gestures;
 - (j) following, watching or loitering nearby another person;
 - (k) inappropriate staring or leaning;
 - (l) using suggestive or sexualised nicknames for workers;
 - (m) making unwanted declarations of attention;
 - (n) sexually explicit pictures, posters or gifts;
 - (o) actual or attempted sexual assault or rape;
 - (p) threatening to share intimate images or film without consent;

- (q) any unnecessarily familiar and unwelcome physical contact with another person, including kissing, fondling, hugging, caressing or brushing against a person;
 - (r) nudity; or
 - (s) offensive posts on Facebook, Instagram, Tik Tok or other social networking sites.
- 4.2 Two of the most common types of behaviour are sexually suggestive comments or jokes and intrusive questions about a person's private life or physical appearance.
- 4.3 These are just examples and there are many other types of conduct that may constitute sexual harassment.

5. WHAT IS SEX BASED HARASSMENT

- 5.1 Harassment on the ground of a person's sex is unlawful.
- 5.2 A person harasses another person (the person harassed) on the ground of sex if:
- (a) by reason of:
 - (i) the sex of the person harassed; or
 - (ii) a characteristic that appertains generally, or is imputed, to a person of the sex of the person harassed (such as pregnancy, hormonal conditions, gender stereotypes etc.),the person engages in unwelcome conduct of a seriously demeaning nature in relation to the person harassed; and
 - (b) the person does so in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.
- 5.3 Sex based harassment can include statements made orally or in writing and the conduct does not need to be repeated for it to be unlawful.
- 5.4 Sex based harassment includes conduct which is not necessarily sexual in nature but is nevertheless unfavourable or discriminatory towards a person on the basis of their sex.

6. EXAMPLES OF SEX BASED HARASSMENT

- 6.1 The following are examples of inappropriate conduct that may constitute sex based harassment:
- (a) Verbal abuse or insults on the basis of sex or gender

(b) Use of slurs, taunts, stereotypes, or name calling on the basis of sex or a characteristic appertaining generally or generally implied to a person's sex

(c) Gender motivated physical threats, attacks, or other hateful conduct

7. VICTIMISATION

7.1 It is unlawful to victimise another person for making a report or being involved in a complaint (e.g. as a witness or support person) of sexual harassment, sex discrimination or sex based harassment.

7.2 Victimisation includes treating someone adversely or disadvantaging them because they have made a complaint or been involved in a complaint.

7.3 Any person who victimises another person may be subject to disciplinary action in accordance with this Policy.

8. REPORTING TO THE COLLEGE

8.1 You are not expected to put up with sexual harassment or sex based harassment from any person in the College. Residents and workers are encouraged to notify the College as soon as possible so that the College can:

(a) provide support and pastoral care; and

(b) take steps to prevent immediate or ongoing risks to the health, safety or wellbeing of any person in the College.

8.2 Residents

(a) The Dean of Students is your first point of contact if you have an issue relating to sexual harassment or sex based harassment. Even if you do not know whether you intend to make a formal complaint, the Dean of Students is available to discuss any issue relating to sexual harassment or sex based harassment with you.

(b) The Dean of Students will explain the options that are available and the steps that may be taken to address the issue. This may include but is not limited to making a formal complaint.

8.3 **Workers**

- (a) Workers should first report any matters of concern to their direct line manager.
- (b) Where this is not appropriate, where the person making a report does not feel comfortable, or where a worker has made such a report but no action has been taken within a reasonable time, the report can be made to the Commercial Manager.
- (c) Either your direct line manager or the Commercial Manager (as applicable) will explain the options that are available to address your concerns or complaint and the steps that may be taken to address the issue. This may include but is not limited to making a formal complaint.
- (d) Either your direct line manager or the Commercial Manager (as applicable) will explain the options that are available to address your concerns or complaint and the steps that may be taken to address the issue.
- (e) Reports that require further investigation will be referred to the Commercial Manager who will report directly to the Head of College on matters relating to this Policy; and has access to independent advisers as and when required.

8.4 **Reports about the Dean of Students, Commercial Manager, Head of College, Member of the College Council or Chair of the College Council**

- a) The Dean of Students and Commercial Manager Head of College will not deal with complaints about their own behaviours, or the behaviour of the Head of College.
- b) If a report involves the Dean of Students or the Commercial Manager this will be directed to the Head of College for investigation and further action.
- c) If a report involves the Head of College, this will be directed to the Chair of the College Council for investigation and further action.
- d) If a report involves a Member of the College Council, this will be directed to the Chair of the College Council for investigation and further action.
- e) If a report involves the Chair of the College Council, this will be directed to the Chair of the Governance Committee for investigation and further action.

8.5 Your report to the College will be kept confidential as far as practicable. However, this may limit the actions that the College can take in response. It may not always be possible to maintain confidentiality in cases where the College is required to take appropriate action.

8.6 The College has legal obligations in relation to the prevention of sexual harassment and sex based harassment and discrimination, and in some cases it may be necessary for further action to be taken in relation to the issues raised, even if you do not wish to make a formal complaint. This might be necessary, for example, if the conduct the subject of a complaint is serious,

repeated or widespread, constitutes a criminal offence, constitutes an occupational health and safety risk or requires disciplinary action.

9. MAKING A FORMAL COMPLAINT

9.1 Residents

- a) If you wish to make a formal complaint, the Dean of Students may, where necessary, prepare a summary of the complaint. You should review the summary to ensure that you are satisfied that the information which it contains is correct.
- b) If you make a formal complaint, or the College otherwise considers it necessary in response to the issues you have raised, a formal investigation may be undertaken by the Dean of Students. Not every complaint will merit a formal investigation as the issues raised may be appropriately resolved in other ways.

9.2 Workers

- a) If you wish to make a formal complaint, the Commercial Manager may, where necessary, prepare a summary of the complaint. You should review the summary to ensure that you are satisfied that the information which it contains is correct.
- b) If you make a formal complaint, or the College otherwise considers it necessary in response to the issues you have raised, a formal investigation may be undertaken by the Commercial Manager. Not every complaint will merit a formal investigation as the issues raised may be appropriately resolved in other ways.

10. INVESTIGATIONS

10.1 INVESTIGATION PROCESS

- 10.1.1 The College will determine whether an investigation is necessary in each case and the form that the investigation will take.
- 10.1.2 Prior to commencing an investigation, the College may recommend that you and the respondent(s) participate in informal intervention in the form of mediation or conciliation. The College may invite the respondent(s) to mediate or conciliate the complaint and mediation will only occur if you and (at least one of) the respondent(s) agree to participate. The College may provide a summary of the complaint to the respondent(s) prior to mediation or conciliation. Mediation or conciliation will be facilitated by a person nominated by the College. The informal intervention process will be complete when the parties come to an agreement on a resolution of the complaint.
- 10.1.3 The function of the investigator is to investigate impartially and resolve complaints. The investigation may be undertaken by the Dean of Students or Commercial Manager. In some circumstances, where the College considers it appropriate, an Independent Investigator may be engaged to undertake the investigation.

10.1.4 You will be permitted to have a support person at all stages of the investigation process.

10.1.5 Depending on the circumstances, the investigation may involve:

- a) interviewing you, the respondent and witnesses;
- b) obtaining relevant documents and other evidence; or
- c) making findings as to whether sexual harassment or sex based harassment or other improper conduct has occurred.

10.1.6 Any investigation will be undertaken impartially and as soon as practicable. Confidentiality will be maintained in that information will only be disclosed by the College to persons involved in the investigation or decision making, or as otherwise considered appropriate by the College to protect the College and its residents and workers. Some complaints may not be able to be progressed or investigated fairly if the reporter chooses to remain anonymous in making a complaint or does not want specific details of their complaint shared with the respondent.

10.1.7 An individual or individuals must not knowingly make a false claims against another or others

10.2 POSSIBLE OUTCOMES

10.2.1 The possible outcomes will depend on whether a complaint is substantiated and the nature of the complaint.

10.2.2 Where an investigation has found that a complaint is substantiated, disciplinary or other appropriate action may be taken against the person about whom the complaint was made. This may include suspension or exclusion from the College if the complaint was made against a resident, termination of employment if the complaint was made against a worker, or reference to the appropriate authorities in serious cases. In less serious cases, other possible outcomes include warnings, counselling, training and similar measures.

10.2.3 If a person contravenes clauses 7 or 10.1.7 of this Policy, then that person may also be disciplined including suspension or exclusion from the College, or potential termination of employment, as the case may be.

11. VISITORS

11.1 Conduct concerning visitors to the College may not fall within the scope of this Policy as conduct amounting to sexual or sex based harassment under discrimination laws.

11.2 Nevertheless, reports about visitors can be made to the Head of College, the Dean of Students or the Commercial Manager. The matter will be dealt with by the College as appropriate in the circumstances.

12. COMMUNICATION AND IMPLEMENTATION OF POLICY

This Policy is available on the College's website and is communicated to all Residents and Workers in their Contracts, and during their Orientation and Induction. This Policy will be reviewed in accordance with the Policy Review Schedule.

13. FURTHER INFORMATION

12.1 Further information relating to sexual harassment or sex based harassment may be obtained from the Dean of Students or the Commercial Manager.

12.2 This Policy will be reviewed annually.

13. DEFINITIONS

TERMS AND DEFINITIONS

Independent Investigator means a third party who is external to the College and is experienced in carrying out investigations.

Reporter means a resident or worker of the College who makes a disclosure or complaint of sexual harassment or sex based harassment.

Respondent means a person against whom allegations of sexual harassment or sex based harassment are made.

Resident means any student or staff residing at the College.

Visitor means

- Invitees of University College;
- Guests of residents or workers ;
- Member of the University College Council (and any guests of such persons);
- Parents, volunteers, alumni (and any guests of such persons);
- Conference attendees (and any guests of such persons);
- Apartment guests (and any guests of such persons); or
- Any other person including members of the public who enter University College.

Worker means a representative or agent of the College, an employee, contractor or subcontractor, an employee of a labour hire company who has been assigned to work at the College, an outworker, an apprentice or trainee, a student gaining work experience, a volunteer or a prospective employee of the College.

APPROVAL AND REVIEW DETAILS

Approval and Policy Owner	Details
Approval Authority	Council
Advisory Committee to Approval Authority	Governance Committee
Policy Owners	Head of College, Dean of Students and Commercial Manager
Next Review Date	November 2023

Version Control	Date Approved	Description of Change
V1	November 2022	Original

APPENDIX A: COLLEGE CONTACTS

Dean of Students Ms Liz Agostino, DeanOfStudents@unicol.unimelb.edu.au,

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Head of College

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