



ORMOND COLLEGE

THE UNIVERSITY OF MELBOURNE

Sexual Harm Policy

ABSTRACT

In line with Recommendation 4 of the *AHRC's National Report on Sexual Assault and Sexual Harassment at Australian Universities* (2017), the Colleges engaged an independent, expert-led review of their policies and procedures that related to Sexual Harm, bullying, harassment and victimisation in October 2018. Following consultation with key staff, experts, students and residents, the previous Sexual Harm Policy and Procedure was adopted by the Heads of Residential Colleges and Halls of the University of Melbourne (**Colleges**) in February 2019. Following further consultation with students and residents, this Policy was adopted by Ormond College in April 2022.

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1. PURPOSE

Ormond College is committed to providing an environment that is safe, supportive and free from Sexual Harm.

This Sexual Harm Policy (**Policy**) outlines the College's commitment and approach to preventing and responding to Sexual Harm, and the support available to those affected.

The purpose of this Policy is to:

- set clear standards of behaviour for Students, Residents, Staff and Associates of the College in relation to Sexual Harm, and strengthen the College's safe and inclusive culture;
- make clear that Sexual Harm will not be tolerated, and has no place in the College community;
- commit the College to taking positive action to prevent Sexual Harm, and to taking timely and appropriate action when it occurs;
- prioritise the safety and wellbeing of individuals making reports or disclosures of Sexual Harm;
- encourage people to report Sexual Harm and engage in safe bystander intervention;
- describe how reports and disclosures of Sexual Harm can be made and how they will be managed.

Sexual Harm is unacceptable and is prohibited under this Policy and the Conditions of Residency and College Values.

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 (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 Sexual Harm may refer to themselves as a victim, survivor, victim-survivor or complainant. For simplicity, this Policy and the Sexual Harm Procedure (Procedure) will refer to:

- people who make a disclosure or report of Sexual Harm as 'Reporters' (who may or may not be the person who experienced the Sexual Harm);
- people who have experienced Sexual Harm as 'Victim-survivors';
- complaints, reports and disclosures of Sexual Harm as 'Reports'; and
- people who are alleged to have engaged in Sexual Harm as 'Respondents'.

Throughout this Policy, the term 'Sexual Harm' refers to all unwelcome conduct of a sexual nature and includes Sexual Harassment, Sexual Assault, Stealthing, Image-Based Sexual Abuse, Stalking, and Drink Spiking.

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

The Policy and Procedure applies to all Students, Residents, Staff and Associates of Ormond College (**College**) in respect of Sexual Harm occurring:

- on all campuses and facilities of the College, including accommodation owned or operated by the College;

- through virtual environments (e.g. email, intranet systems, social media, online forums, communities and platforms);
- 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;
- 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;
- whilst Students, Residents, Staff and Associates represent the College, a club affiliated with the College, or whilst on exchange or sabbatical; and
- between a Staff Member, Student, Resident and / or Associate of the College.

This Policy does not apply to bullying, discrimination, victimisation and other forms of misconduct which are covered by the Discrimination, Bullying and Victimisation Policy.

Where the College receives a Report from a former Student, Resident, Staff Member or Associate of the College about Sexual Harm while they were at the College, the Safe Coordinator and Head of College may (at their discretion), respond to that Report in line with the Procedure.

Where a Report relates to conduct covered by both this Policy and the Bullying, Discrimination and Victimisation Policy, this Policy prevails to the extent of any inconsistency.

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. OVERVIEW OF SEXUAL HARM

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 Sexual Abuse, Stalking, and Drink Spiking. All forms of Sexual Harm constitute a breach of this Policy.

Sexual Harm can:

- occur between strangers or those who know each other well, including those involved in a consensual intimate relationship;
- 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.

4. PRINCIPLES

The College will apply the following principles when preventing and responding to Sexual Harm in line with this Policy:

- **Respecting Victim-survivors:** prioritising the safety and wellbeing of people who have experienced Sexual Harm by providing a trauma-informed approach which supports, listens to and validates their experience
- **Focusing on prevention:** proactively fostering a safe, equitable and respectful environment for all members of the College community to prevent Sexual Harm;
- **Implementing a safe process:** implementing a safe, sensitive and timely process when responding to Sexual Harm;
- **Empowering accountable leadership:** Leaders are accountable to the College for preventing Sexual Harm and must empower all members of the College community to be informed, active

bystanders who uphold and champion these principles through their actions, words and decisions.

- **Building community knowledge and understanding:** taking proactive steps to educate and inform the College community of what constitutes Sexual Harm and reinforce the message that Sexual Harm will not be tolerated.
- **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.
- **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.
- **Respecting intersectionality:** Understanding, respecting, and embracing the many aspects of a person's identity in preventing and responding to Sexual Harm. 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.

This is underpinned by the College's view that:

- all people have a right to live, work, study and socialise in an environment that is free from Sexual Harm;
- Sexual Harm is never the fault of the person who does not consent to the sexual conduct; and
- people who disclose that they have experienced Sexual Harm should be believed.

5. EXPECTED BEHAVIOURS

All Students, Residents, Staff and Associates must comply with the Policy, Conditions of Residency and the College Values and have a responsibility to:

- Treat others with dignity, courtesy and respect at all times;
- Uphold the values of the College;
- Protect the health, safety and wellbeing and privacy of others in the College community;
- Engage in safe bystander action to prevent risks of Sexual Harm;
- Respond in a compassionate, empathetic and supportive manner to any person who discloses that they have experienced, witnessed or have information about Sexual Harm, and support the person to connect with the support services outlined at section 8;
- seek Affirmative Consent when engaging in all sexual activities;
- ensure they do not request, instruct, induce, encourage, authorise or assist other persons to engage in Sexual Harm;
- 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.

Students, Residents, Staff and Associates must not:

- engage, attempt to engage or threaten to engage in any form of Sexual Harm;
- request, instruct, induce, encourage, authorise or assist other persons to engage in Sexual Harm; or

- 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.

Staff Members have additional responsibilities under the Policy and Procedure. The roles and additional responsibilities of Staff Members, Safe Coordinators, Safe Contact Persons, Head of College, and External Advisors are set out in **Appendix B**. The contact details for relevant Staff are contained in **Appendix C**.

6. BREACHES

All Students, Residents, Staff and Associates must not engage in Sexual Harm and must comply with this Policy (including the Annexures and Procedure).

Sexual Harm constitutes serious misconduct and may also be a criminal offence.

A breach of this Policy may lead to the outcomes in sections 7 of this Policy.

Sexual Harassment by Staff is a form of serious misconduct under the *Fair Work Regulations 2009* (Cth), which can lead to dismissal without notice.

Individuals who engage in Sexual Harm may be personally liable for that conduct.

Sexual Harm 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.

The College is required to respond to reports of Sexual Harm against Staff in a procedurally fair manner. 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.

7. POSSIBLE OUTCOMES

The College is committed to taking action (whether disciplinary or non-disciplinary) in respect of Sexual Harm 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:

- 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;
- the College may consider the views of the person who experienced the Sexual Harm to provide input on its proposed outcome before making a decision on the appropriate outcome;
- consultation with Students and Residents in developing this Policy found a lack of support for a "one size fits all" approach, which may have the effect of undermining the wishes of the person who experienced the harm;
- 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.

Possible outcomes include, but are not limited to:

- Disciplinary action against the Respondent (including the termination of their employment or engagement with or without notice);
- Formal warnings (including final warnings) that are noted on the Respondent's file;
- Restrictions on the Respondent's participation in the College's activities (including Alumni events held off campus), and/or attendance at College;
- Suspending or terminating the Respondent's residence, or relocating the Respondent;
- Informal counselling or education;

- Requirement to undertake formal training or development;
- A formal apology by the Respondent and/or bystanders;
- Written undertakings that the behaviour will cease;
- Mediation conducted by an impartial third party (where requested by the person who experienced the Sexual Harm and both parties agree to participate);
- Reports to external authorities (e.g. police where there is an immediate or ongoing risk to the health, safety or wellbeing of any person);
- Removal from positions of responsibility; and
- Preventing further contact with Students, Residents, Staff or Associates, including the Reporter.

8. SUPPORT SERVICES

All members of the College community are encouraged to seek assistance and support in relation to Sexual Harm at the earliest opportunity.

In an emergency or where a person is in immediate danger, please contact:

- Police and emergency services (24 hours) call 000
- Ormond College Duty Manager (24 hours) call 0417 380 480
- University of Melbourne Security (24 hours) call 8344 6666

Sexual Harm often constitutes criminal conduct. Victoria Police can provide advice and access to a range of external services for additional support and assistance.

Additional support is available through the:

- **Safe Coordinators and Safe Contact Persons** at the College, who can provide guidance on the options to report Sexual Harm, 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**.
- **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.
- **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).
- **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.
- **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.

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.

For people who are deaf or have a hearing or speech impairment, contact the National Relay Service:

- for TTY users/Voice Calls, phone 133 677;
- for Speak and Listen, phone 1300 555 727; or
- for SMS relay, contact 0423 677 767,

and ask them to connect you with the service you need.

9. INTERNAL SUPPORT SERVICES

Students, Residents, Staff and Associates are encouraged to seek support in relation to Sexual Harm from Safe Coordinators and Safe Contact Persons at the College, who can provide guidance on the:

- supports available;
- options to report Sexual Harm, 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**.

The College is committed to supporting Reporters and those to whom a disclosure is made. Such support may include:

- access to internal or external counselling services;
- changes to work / study timetable, residential arrangements and environment at the College;
- changes to supervision, reporting or tuition arrangements;
- providing additional or alternative academic support, including support with applying for special consideration;
- allowing time to attend support services;
- assistance to overcome any cultural or linguistic barriers that may exist;
- for Staff, re-crediting leave taken as a result of Sexual Harm; and
- any other support that the individual requests and that the College considers appropriate in the circumstances.

The College is also committed to supporting the welfare of Respondents. This support may include:

- referral or access to internal or external counselling services;
- granting leave to attend support services;
- assistance to overcome any cultural or linguistic barriers that may exist; and
- any other support requested by the Respondent that the College believes is appropriate in the circumstances.

10. CONFIDENTIALITY AND USE OF INFORMATION

The confidentiality and privacy of a person who discloses an incidence of Sexual Harm, and that of Respondents and parties to disclosure, must be protected and respected at all times.

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 Report, investigation process or investigation outcome, for the purpose of:

- 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
- 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.

The College may ask the parties to agree to maintain confidentiality while it is responding to the 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.

The College will keep information provided to it relating to a Report confidential. Such confidential information may only be disclosed to third parties to:

- comply with any law, legal obligations or duties or obtain legal advice; or
- report a matter to police; or
- provide pastoral care and facilitate access to support services; or
- investigate a Report.

The Safe Coordinator will keep the Head of College informed of the status of the College's response to the Report. Reports to the College Council will be de-identified and of a general nature only.

The College should not provide the Report or statement of the person who experienced the Sexual Harm 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.

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.

Case Study: A case of Sexual Harm has been reported 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 Sexual Harm where it is lawfully required to do so.

11. RECORD KEEPING

The College will ensure that Reports of Sexual Harm are collected and stored confidentially in line with the Policy and Procedure, including:

- details of the incident;
- steps taken to respond to the incident / Report;

- 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);
- the College's response to the report (including referrals to external bodies and support services); and
- any feedback provided by the Reporter / Respondent in relation to the process.

On request, the College will provide the person who experienced the Sexual Harm with information on their Report.

The Head of College and Safe Coordinator will:

- keep appropriate records of all Reports of Sexual Harm centrally and securely;
- ensure that Reports are de-identified and anonymised as needed;
- ensure access to information relating to Reports of Sexual Harm is restricted to Staff who have a need to access and use the information to carry out or support responsibilities under this Policy.

12. VICTIMISATION

It is unlawful to victimise any person for making a report of Sexual Harm. Any retaliatory action taken or threatened against a Staff Member, Resident, Student or Associate because of their involvement or suspected involvement in a Report or disclosure of Sexual Harm 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

It is the College's position that people who experience Sexual Harm should be believed. Deliberately making a false or misleading Report is a serious matter and is unacceptable. Where a College is satisfied, on a reasonable basis, that a Report is malicious, frivolous or vexatious, the Reporter may face disciplinary action.

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 report was false or misleading.

14. DISSEMINATION AND REVIEW

This Policy and Procedure is available on the College's website and The Grail, and is communicated to all Students, Residents, Staff and Associates, during Student and Staff orientation, and through email, posters and The Grail. The Policy and Procedure will be reviewed as advised by the Dean of Wellbeing and Development but no later than 4 years.

15. RELATED POLICIES AND PROCEDURES

The Sexual Harm Policy should be read in conjunction with:

- The College's Sexual Harm Procedure;
- The College's Discrimination, Bullying and Victimisation Policy and Procedure;
- The College's Conditions of Residence;
- Melbourne University's:
 - 'Sexual Misconduct Prevention and Response Policy' (MPF1359) (<https://policy.unimelb.edu.au/MPF1359>);
 - 'Appropriate Workplace Behaviour Policy' (<https://policy.unimelb.edu.au/MPF1328>);

- 'Student Conduct Policy' (<https://policy.unimelb.edu.au/MPF1324>);
- 'Child Safety Policy' (<https://policy.unimelb.edu.au/MPF1337>)

16. RELEVANT LAWS

This Policy supports compliance with the following legislation as amended:

- *Australian Human Rights Commission Act 1986* (Cth)
- *Crimes Act 1958* (Vic)
- *Equal Opportunity Act 2010* (Vic)
- *Fair Work Act 2009* (Cth)
- *Occupational Health and Safety Act 2004* (Vic)
- *Occupational Health and Safety Regulations 2007* (Vic)
- *Sex Discrimination Act 1984* (Cth)

APPENDIX A: DEFINITIONS

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|-----------------------------------|--|
| Affirmative Consent | <ul style="list-style-type: none"> A model of Consent in which a person must do or say something to affirm they have Consent before sex occurs. This is a “yes means yes” rather than “no means no” approach to Consent, and means that a person’s Consent cannot be assumed in circumstances where they freeze and do not offer physical resistance to sexual activity. Affirmative Consent shifts the emphasis from the actions to the Respondent, and is the approach to consent that is required under this Policy. A person accused of a Sexual Offence will need to prove that they reasonably believed that the other person consented. If the other person did not do something or say something to indicate consent, it will be difficult for the accused person to argue that their belief in consent was reasonable. |
| Age of Consent | <ul style="list-style-type: none"> The law in Victoria sets clear age limits for when you 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 | Associate means contractors, consultants, volunteers, visiting appointees and visitors at the College (not including conference guests). |
| Conduct of a Sexual Nature | <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. 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). |
| Consent | <p>A person consents to a sexual act when they provide <i>free agreement</i> to that act. 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.</p> <p>Other instances in which there cannot be valid Consent include where:</p> <ul style="list-style-type: none"> force is used or threatened to be used against a person to coerce them into engaging in the sexual activity; 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). |

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| | Lack of Consent is an element common to all Sexual Offences. See also Affirmative Consent. |
| Drink Spiking | 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. |
| Image-Based Sexual Abuse | <p>Image-Based Sexual Abuse involves creating, distributing and/or threatening to distribute sexually explicit images or videos of others. The following are types of image-based sexual abuse:</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); • revenge porn (the sharing of sexually explicit images or videos without consent); and • sextortion (a form of blackmail where a person threatens to share sexually explicit images or videos unless the person the subject of those images or videos gives in to their demands). <p>In Victoria, Image-Based Sexual Abuse is a crime under various pieces of legislation. It will also be treated as Sexual Harm under this Policy.</p> |
| Independent Investigator | Independent Investigator means a third party who is external to the College and is experienced in carrying out investigations. |
| Rape | <p>Rape is a type of Sexual Assault that is committed when a person:</p> <ul style="list-style-type: none"> • <i>sexually 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; • <i>makes</i> 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 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> |
| Report | Report means a report of Sexual Harm made to a College (whether formally or informally) by a Student, Resident, Staff Member or Associate. |
| Reporter | A Student, Resident, Staff member or Associate of the College who makes a disclosure, complaint or report of Sexual Harm. |
| Resident | Resident means a Resident of a College to which this Policy applies. |
| Respondent | Respondent means a person against whom allegations of Sexual Harm are made. |
| 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; |

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| | <ul style="list-style-type: none"> 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, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that a person would be offended, humiliated or intimidated. 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 Sexually Explicit Videos or Images without consent; displaying pornographic or sexually explicit material (posters, screen savers, photos, calendars or objects); 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 Sexual Abuse; 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> |

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| | <ul style="list-style-type: none"> • Rape; • Sexual Assault; • Image-Based Sexual Abuse; • Stalking; • Drink Spiking; • 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> |
| Sexually Explicit Image or Video | Videos, photos or images of a person engaged in a sexual activity, or in a manner or context that is sexual (including photos depicting the person naked). |
| Staff or Staff Member | An employee of the College. |
| 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. 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 the Discrimination, Bullying & Victimisation Policy.</p> |
| Stealthing | <p>The practice of one person 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>In Victoria, stealthing 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> |
| Student | A student of a College to which this Policy applies. |
| University | The University of Melbourne. |
| 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> |
| Visitor | A visitor to the Colleges' premises or officially run College event (not including conference guests) |

APPENDIX B: STAFF ROLES AND RESPONSIBILITIES

In addition to the expected behaviours in section 5, Staff Members of the 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 Head of College of any concerns of non-compliance with this Policy and/or Procedure;
- support Students, Residents, Staff and Associates to report their concerns of Sexual Harm;
- refer persons with concerns about Sexual Harm 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.

HEAD OF COLLEGE

The Head of College is responsible for:

- prioritising the agency of the person who experienced Sexual Harm by involving them in decisions about the College's response to their Report;
- balancing the needs and wishes of the person who experienced Sexual Harm 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 reports of Sexual Harm;

- nominating representatives to relevant committees (i.e. the wider Deans and Deputy 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;
- where possible and appropriate, implementing and maintaining an anonymous reporting framework so that de-identified data on Sexual Harm can be recorded and reported.

SAFE COORDINATORS

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

- prioritising the agency of the person who experienced Sexual Harm by involving them in decisions about the College's response to their report;
- balancing the needs and wishes of the person who experienced Sexual Harm against the obligation to provide a safe environment for all Students, Residents, Staff and Associates;
- managing the report and investigation process;
- 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 Sexual Harm; 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

The College recruits, trains, and supports experienced Staff Members (both academic and administrative) to become Safe Contact Persons, and if required, suitable 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 Sexual Harm and Prohibited Conduct their options for making complaints and reports;
- ensuring that support is provided to Reporters of Sexual Harm, as well as Respondents to allegations of Sexual Harm;
- being involved in the complaint handling process as directed by the Safe Coordinator.

EXTERNAL CONSULTANT

The External Consultant, appointed by the College Head, assists the College 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 in the handling reports of Sexual Harm; 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 be invited by a College to:

- provide advice to Students, Residents, Staff and Associates in relation to Prohibited Conduct and Sexual Harm;
- providing support to Reporters of Prohibited Conduct and Sexual Harm, and Respondents to allegations of such conduct;
- be involved in the complaint handling process as directed by the Safe Coordinator.

APPENDIX C: COLLEGE CONTACTS

SAFE

Sexual Harm Prevention
Advice and Advocacy
Fair Treatment
Equality and Equity

SAFE COORDINATOR

- Kristen Doran-Stawiarski, kdoran-stawiarski@ormond.unimelb.edu.au

INTERNAL SAFE CONTACT PERSONS

- Francesca Aleandri, faleandri@ormond.unimelb.edu.au
- Emma Hoskins, ehoskins@ormond.unimelb.edu.au
- Rachel Jenzen, rjenzen@ormond.unimelb.edu.au
- James Kelly, jkelly@ormond.unimelb.edu.au
- Sophie Simpson, ssimpson@ormond.unimelb.edu.au

HEAD OF COLLEGE

- Lara McKay, master@ormond.unimelb.edu.au

EXTERNAL CONSULTANT TO THE COLLEGE

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



ORMOND COLLEGE

THE UNIVERSITY OF MELBOURNE

Sexual Harm Procedure

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1. OVERVIEW

This Procedure sets out the way that Students, Residents, Staff and Associates can make a Report about Sexual Harm to the College, and how the College will respond.

The Procedure must be read in line with the Sexual Harm Policy (**Policy**).

Throughout this Procedure, the term 'Sexual Harm' refers to all unwelcome conduct of a sexual nature and includes Sexual Harassment, Sexual Assault, Stealthing, Image-Based Sexual Abuse, Stalking, and Drink Spiking.

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

Reports of Sexual Harm can be made to the College or an external body. Reporters may make a report or complaint through whichever channel they choose.

The College aims to respond to Reports and resolve concerns as quickly as possible.

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.

The Safe Coordinator will take steps to ensure that ongoing support is provided to the person who experienced the Sexual Harm (and any other affected parties), and that they are regularly consulted and informed about the College's response.

2. REPORTING TO THE COLLEGE

Students, Residents, Staff and Associates are encouraged to notify the College of actual or suspected Sexual Harm as soon as possible so that the College can:

- provide support and pastoral care; and
- take steps to prevent immediate or ongoing risks to the health, safety or wellbeing of any person at the College.

Before making a Report of Sexual Harm, 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.

Reports of Sexual Harm may be made verbally or in writing to a Safe Coordinator, who has received training to respond to Sexual Harm.

If the Reporter does not feel comfortable speaking with the Safe Coordinator for any reason, they may raise their concern with the Head of College [or in the case of Staff, with Human Resources]. If the concern relates to the Head of College, the Report should be made to the Chair of the College Council.

There is no time limit for a person to report Sexual Harm to the College under the Policy or Procedure. However, the College's ability to effectively respond to and prevent Sexual Harm may diminish over time.

3. ANONYMOUS REPORTING

The College has implemented an anonymous reporting framework to enable Students, Residents, Staff and Associates to make an anonymous report of Sexual Harm covered by this Policy.

The College collates and analyses data on anonymous reports to monitor the prevalence of Sexual Harm in connection with the College.

Because reports are anonymous, the College will rarely be able to take action in relation to an anonymous report. If a person would like action to be taken in relation to an incident of Sexual Harm, they are encouraged to report the incident to the College, the University, or an External Body.

4. REPORTING TO AN EXTERNAL BODY

Students, Residents, Staff and Associates may seek independent guidance from and/or make a Report or complaint about Sexual Harm with an external body at any time.

Reports of Sexual Harm may be made by any person to:

- Victoria Police: Melbourne North Police Station (open 24 hours), 36 Wreckyn Street, North Melbourne. Phone: (03) 8379 0800.
- Victoria Police Sexual Offences and Child Abuse Investigation Team: Phone (03) 8690 4056.

Students, Residents, Staff and Associates can also make claims of sexual harassment in areas such as employment, accommodation, goods and services or sport to the:

- Victorian Equal Opportunity and Human Rights Commission: <http://www.humanrightscommission.vic.gov.au/>. Phone: 1300 292 153.
- Australian Human Rights Commission: <https://www.humanrights.gov.au/>. Phone: (02) 9284 9600.

Employees and Contractors of the College can also make a complaint or report a concern to:

- Fair Work Commission, <https://www.fwc.gov.au/>. Phone: 1300 799 675.
- WorkSafe Victoria: <http://www.worksafe.vic.gov.au/>. Phone: (03) 9641 1444 or 1800 136 089.

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.

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 Report). However, the College may still take steps to address and prevent Sexual Harm.

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

5. RESPONDING TO REPORTS OF SEXUAL HARM

5.1 REPORTS INVOLVING MULTIPLE COLLEGES

Where a 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 Report. Generally, the College with the greatest degree of connection to the allegations will take responsibility for managing the Report.

In some circumstances, it may be necessary to seek advice about the handling of the complaint from the External Consultant.

5.2 REPORTS ABOUT THE SAFE COORDINATOR OR HEAD OF COLLEGE

Where a Report concerns the Safe Coordinator, the Head of College will act as the Safe Coordinator for the purpose of the Policy and Procedure and assume the role and responsibilities of the Safe Coordinator.

Where the Report concerns the Head of College, the Chair of the College Council (or other nominated Council Member) will act as Safe Coordinator and Head of College for the purpose of the Policy and Procedure and assume their roles and responsibilities.

The Safe Coordinator will not deal with reports about their own behaviour or the Head of College.

5.3 REPORTS INVOLVING STUDENTS OR RESIDENTS

Where a Report of Sexual Harm 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.

Nothing in the Policy or Procedure prevents a College from responding to Reports of Sexual Harm as a breach of the College's values, Code of Conduct or Terms of Residence without following an investigation or show cause process.

5.4 PRECAUTIONARY MEASURES

The College may put in place temporary or permanent precautionary measures in response to an alleged or anticipated incident of Sexual Harm to protect the health, wellbeing and safety of all Residents, Students, Staff and Associates.

The Safe Coordinator will consult with the Head of College or their delegate about precautionary measures. Precautionary measures may include (but are not limited to):

- restricting the Respondent's access to the Colleges' premises or property;
- suspending a person from the College or from specified activities or events;

- relocating the Respondent (or the person who experienced the Sexual Harm, on their request) to minimise interactions between the Respondent and the person who experienced Sexual Harm.

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.

5.5 IMMEDIATE STEPS TO SUPPORT THE PARTIES

The College will respond to a Report of Sexual Harm by taking immediate steps to support and protect relevant parties, with a focus on the person who has experienced the Sexual Harm. This may include:

- providing referrals to medical or support services, or access to internal or external counselling services;
- changes to work / study timetable and residential arrangements at the College;
- changes to supervision, reporting or tuition arrangements;
- providing additional or alternative academic support, including support with applying for special consideration;
- granting leave to attend support services;
- assistance to overcome any cultural or linguistic barriers that may exist; and
- providing assistance to a person who has experienced Sexual Harm make a police report, or apply for a Personal Safety Intervention Order to prevent the Respondent's contact with the them.

5.6 CONSIDERATIONS WHEN RESPONDING TO REPORTS OF SEXUAL HARM

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 take the concern any further.

Wherever possible, the Safe Coordinator or Head of College will provide written acknowledgement of the Report of Sexual Harm within two (2) business days of receiving it, and will offer support and explain the process.

In considering how to respond to a Report made to the College, the College will consider:

- the needs and wishes of the person who has experienced the Sexual Harm;

- 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);
- whether there is a risk to the health or safety of the person who experienced the Sexual Harm, or any other person;
- whether the Report relates to a person under the age of 18;
- what investigative or other actions, if any, are available to the College;
- whether two or more people name the same Respondent in separate Reports or the College is concerned the Report may suggest a pattern of behaviour by the Respondent;
- whether it is required to communicate the nature of the Report to other authorities;
- any relevant processes or sanctions that are available to the College under the terms of any contract between the Respondent and the College; and
- procedural fairness to the Respondent.

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.

5.7 ADDRESSING CONCERNS WITH THE RESPONDENT

Having regard to the factors in section 5.6 above, it may be appropriate for the College to advise the Respondent of the concerns raised about their conduct.

This process may be appropriate where:

- the Reports of Sexual Harm are of a general nature;
- the Reporter / person who experienced the Sexual Harm does not wish to participate in any processes proposed by the College to address the behaviour in a timely manner.

Where the College considers that it is appropriate to discuss the concerns of Sexual Harm directly with the Respondent, it will:

- take reasonable steps to notify the Reporter of their proposal to do so, and the likely timing of that communication; and
- 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 Sexual Harm);
- remind the Respondent of their obligations not to engage in Sexual Harm and / or breach the Policy, and the consequences of doing so in future;

- encourage the Respondent to reflect on their behaviour;
- consider whether to engage in other restorative processes, provided that the College has consulted with the Reporter and is satisfied that they will not cause further harm to the Reporter.

5.8 SHOW CAUSE PROCESS

Without limiting the options available to respond to concerns of Sexual Harm, the College may put allegations of Sexual Harm to a Respondent as part of a “show cause” or disciplinary process. As part of that process, the College should 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 should de-identify the allegations to the greatest extent possible.

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).

5.9 INVESTIGATIONS

The College has the discretion to conduct an investigation to a Report of Sexual Harm. An investigation involves collecting information about the allegations and assessing whether the alleged conduct occurred on the balance of probabilities.

A person can request that the College investigate Sexual Harm verbally or in writing to the Safe Coordinator or Head of College. The request should include details of the incident(s) and any supporting information.

The person who has experienced the Sexual Harm 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 Sexual Harm. This may involve de-identifying details of the Reporter where it is possible to do so.

If the Safe Coordinator or Head of College considers that an investigation is appropriate, they may conduct an investigation internally or appoint an independent investigator, at their discretion. External investigations will require approval of the Head of College or their delegate.

The investigation will be conducted in a manner that the Safe Coordinator and/or Head of College (or their delegate) considers appropriate. Further to section 5.3, if a College considers it appropriate for the safe and efficient conduct of an investigation, it may:

- direct a person not to carry out their duties or attend certain areas (including College events); and/or
- provide alternative duties, tasks or accommodation to a Respondent (or to the person who experienced the Sexual Harm on their request).

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). The College will not provide any party with access to or a copy of any investigation report.

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).

5.10 MEDIATIONS

In very rare circumstances, it may be appropriate for the College to respond to Sexual Harm by facilitating a mediation. A mediation is a process where a neutral third party attempts to assist the parties to resolve a dispute or concern by mutual agreement.

Mediation is conducted without prejudice to any other actions relating to or that might arise from the allegation or Report.

Because of the serious nature of Sexual Harm, a mediation will only occur if:

- the person who experienced the Sexual Harm is willing to be identified to the Respondent;
- the person who experienced the Sexual Harm requests the mediation; and
- all parties agree to the mediation voluntarily.

If the Safe Coordinator [or Head of College] 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.

The Respondent will be provided with details of the concerns or allegations, but will not be provided with any Report. All parties will and be provided with the opportunity to seek support from a Safe Contact Person.

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 Sexual Harm is comfortable with this.

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.

The parties may both have a support person attend the mediation, but may not have a legal representative or advocate.

If the mediation does not proceed or is unsuccessful, Safe Coordinator:

- will ensure that the parties are offered support;
- will consider alternatives to respond to the Report;
- may refer the parties to their respective Safe Contact Persons to discuss further options.

5.11 WITHDRAWN REPORTS

Where a Reporter withdraws their Report or does not wish to participate in any other process in relation to the Report, the College:

- will retain the details of the Report in accordance with section 11 of the Policy;
- notify the Reporter of any proposed action against the alleged Respondent;
- offer the Reporter ongoing support; and
- confirm the above in writing to the Reporter.

A Reporter who has withdrawn their Report may ask the College to reinstate the Report at any time.

6. POSSIBLE OUTCOMES

The College may take action (whether disciplinary or non-disciplinary) in respect of Sexual Harm and / or breaches of this Policy, Procedure, Conditions of Residence and Ormond College Values.

Relevant considerations and possible outcomes are outlined in sections 6 and 7 of the Policy.

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 Sexual Harm before taking disciplinary action. The College may seek independent advice from the External Advisor on its proposed response to the Reports about Staff Members before proceeding.
