



# HARASSMENT POLICY

Policy Number	2.8		
Responsible Officer	Master		
Superseded Documents	Harassment Policy (2003)		
Associated Documents	WH&S, Document retention		
Review Date			
<b>Version</b>	<b>Authorised by</b>	<b>Approval Date</b>	<b>Effective Date</b>
1.3	The Board for public release	21/2/2018	21/2/2018

## 1) Purpose

The purpose of this policy is to provide a framework and information on how to prevent harassment and how to appropriately resolve alleged cases of harassment (including sexual harassment), bullying, and unlawful discrimination.

**Note: The College is committed to ensuring that harassment is not part of College life.**

## 2) Background

New College (including New College Village, together termed the College) is a unique community that provides a network of relationships enabling connectedness and a sense of belonging. The strong academic and pastoral support systems that the College offers reflect the fact that the welfare and growth of residents are at the core of College life. Residents and staff at the College contribute to each other. Residents of the College enjoy the privilege of membership of this community, and with it, responsibility to contribute in positive ways to the lives of other people.

A key role of the Board of the College is to ensure that the Master and staff have procedures in place that prevent or reduce harassment and to ensure that education and training programs are run annually to inform residents of their rights and responsibilities in this area.

## 3) Scope

This policy applies to all members of the College community including staff, residents, visitors and contractors who are engaged in any College related activity whether on College property or off site. It further includes participation in, or the publication of information on, any electronic medium.

#### 4) Definitions

Bullying	Bullying is defined as repeated and unreasonable behaviour directed towards a resident, staff member or a group of people that creates a risk to health, whether mental, social, emotional, spiritual or physical, and safety.
Bystander	Bystanders are individuals who observe harassment (including sexual harassment) or bullying firsthand or are subsequently informed of the incident(s).
Consent	For the purposes of this policy, consent is defined to be consistent with the NSW Crimes Act (NSW Government 1900), Section 61HA. This is specifically that a person consents only if that person freely and voluntarily agrees. Consent must be knowingly obtained and is negated if the party required to give consent does not have the capacity to consent due to age, consciousness, unlawful detention, mistaken identity or the influence of drugs and alcohol.
College	This can refer to New College and New College Village as separate and related entities.
Complainant	Used to identify the resident or staff member who believes that they have been subject to, or have witnessed, harassment, bullying, sexual harassment and/or unlawful discrimination.
Harassment	Under federal and state legislation, unlawful harassment occurs when someone is made to feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under anti-discrimination or human rights legislation. It can also happen if someone is working or living in a hostile – or intimidating – environment. (Please see Section 6.)
Indecent assault	Any person who assaults another person and, at the time of, or immediately before or after, the assault, commits an act of indecency on or in the presence of the other person. (NSW Crimes Act (NSW Government 1900), Section 61L). Indecency is defined by common law.
Respondent	Used to identify the resident or staff member about whom a complaint of workplace harassment, sexual harassment, bullying and/or discrimination has been made.
Senior Residents	Senior Residents are termed Residential Advisers at New College and Senior Residents at New College Village. These are senior student residents employed to provide direct pastoral care for residents. They will have designated building floors or groups for which they are responsible.
Sexual misconduct	Sexual misconduct encompasses any form of harassment of a sexual nature, indecent assault, sexual assault and voyeurism.
Sexual assault	Any person who has sexual intercourse with another person without the consent of the other person and who knows that the other person does not consent to the sexual intercourse (NSW Crimes Act (NSW Government 1900), Section 61I, sexual intercourse is defined in Section 61H).
Staff	Any person on the New College payroll including senior residents and academic tutors.

Unlawful Discrimination	Generally means any practice that treats a person less favourably or has the effect of disadvantaging the person because of an attribute (e.g. sex or race) specified by anti-discrimination legislation
Voyeurism	A person who, for the purpose of obtaining sexual arousal or sexual gratification, observes a person who is engaged in a private act.

## 5) Policy Statement

### 5.1 Definition

Harassment is any type of behaviour to which the other person does not consent; and which offends, embarrasses, or frightens them. Harassment may be:

- sexual, or
- behaviour that targets another person because of their race, sex or gender (including transgender), pregnancy, marital status, sexual preference or orientation (including homosexuality, lesbianism, bisexuality and heterosexuality), disability or long term illness, age, social origin, political belief, or religious belief, and

that, in the circumstances, a reasonable person should have expected would offend, embarrass, or frighten.

Harassment includes actual and perceived (imputed) race, sexuality, disability etc., as well as bullying or intimidation to such an extent that their (or other's) health and/or safety is at risk.

### 5.2 College Practice

As a Christian University College we expect all residents to treat others with respect, honesty, tolerance, dignity and fairness. In such a community there is no place for harassment.

Every resident, visitor or employee has a right to study or work in an environment that is free from harassment, and should expect to be treated with dignity and respect regardless of their background, beliefs or culture. All members of the community have a responsibility to ensure that their actions do not negatively affect another staff member and/or student's career, health or well-being.

This policy describes the ways in which the College deals with cases of harassment that may arise in the community. Harassment **is not tolerated** at the College and hence breaches of this policy will lead to formal cautions, fines or expulsion for residents and possible dismissal in the case of staff.

- A staff member found to have harassed, bullied, unlawfully discriminated or sexually harassed another member of the Community or to have condoned such behaviour will be subject to disciplinary action in accordance with the provisions of their employment contract and other relevant policies and procedures.
- A resident found to have harassed, bullied, unlawfully discriminated or sexually harassed another member of the Community or to have condoned such behaviour will be subject to disciplinary action in accordance with the provisions of their residency contract and other relevant policies and procedures within the College and the University.

All residents and employees have a responsibility to ensure that they do not promote or engage in harassment, as well as a right to expect this policy to be enforced if they are harassed.

Staff have a responsibility to provide, in so far as they are able, a safe college environment that enables residents and staff to carry out their responsibilities free from harassment including sexual harassment, bullying and unlawful discrimination. Staff are to be alert to the possibility of harassment, bullying, unlawful discrimination and sexual harassment and are to monitor key indicators such as workplace culture, high absenteeism and high staff turnover and should take appropriate action if they become aware of any incidences. This action may take the form of training, workplace information, or appropriate disciplinary response.

The College requires that all parties involved will treat all complaints confidentially (except for reporting to appropriate staff) and will make every attempt to resolve the issue at the lowest possible level. In the event that this may not be possible, other steps may need to be taken that can include the activation of investigation and or misconduct or serious misconduct procedures as specified in appropriate agreements or policies and procedures.

New College requires all staff to behave responsibly by complying with this policy, to not tolerate unacceptable behaviour, and to immediately report incidents to the appropriate person.

### **5.3 Witnesses / Bystanders to Inappropriate Behaviour**

If any member of the College community is witness to behaviour that they consider may constitute harassment, sexual harassment, bullying or unlawful discrimination, or they are a bystander, it is appropriate and important that they raise their concerns about such behaviour to an appropriate community leader (e.g. Senior Resident, Dean, Master).

The Master, Deans or senior staff can provide advice and assistance to observers of alleged inappropriate behaviour regarding alternatives and strategies to safely raise their concerns.

### **5.4 Confidentiality and Record Keeping**

Anonymous allegations of breach of this policy will be received by college staff.

Pursuit of allegations of breach of this policy will be undertaken in accord with guidelines developed by the NSW Ombudsman for universities for dealing with complaints (NSW Ombudsman, 2015). Special care will be taken to respect the wishes of the complainant, to protect any complainants against reprisals and to maintain confidentiality in accordance with the Ombudsman's guidelines.

In the case where the Master has firm grounds to suspect that a serious indictable offence has been committed, the case will be referred to Police as required by Section 316 of the NSW Crimes Act (1900).

Information about a complaint will only be made available to those directly involved in the investigation or resolution of a case.

Staff will keep file notes on all cases of alleged breaches of this policy.

The Board, Master or nominee may examine any document at any time.

Under a charter initiated by the independent colleges in 2016 (Appendix A), the Master is bound to confidentially report all instances of sexual misconduct to the University of New South Wales.

### **5.5 False, Malicious or Vexatious Allegations**

Community members who make false, malicious or vexatious allegations are in breach of this policy and that behaviour may be viewed as misconduct or serious misconduct.

### **5.6 Defamation**

Parties involved in allegations of harassment, bullying, sexual harassment and /or unlawful discrimination should be aware of the principles of defamation.

### **5.7 Approaching External Agencies**

New College recognises the rights of staff and residents to seek resolution of their concerns or to seek independent advice from external agencies such as the unions, Employee Assistance Program, Dispute Resolution Centre, Respective state Anti-Discrimination Commissions, and University Student services.

## **6) Legal and Policy Framework**

The College has obligations as part of its duty of care towards staff and residents of the college. These are set within a broad framework of government legislation and common law that covers individual rights of all those within the College community.

All of the following types of behaviour constitute harassment are banned by the College because they are crimes:

- indecent, sexual or physical assault of any type (including some forms of initiation rites);
- displaying the sexual parts of one's body;
- any form of voyeurism;
- unwanted touching of the sexual parts of someone else's body; and
- stalking.

In view of the conflict of interest as well as the possibility of breaches of this policy being alleged against staff, sexual relationships between members of staff, or between staff and college residents are expressly forbidden (excluding persons married to each other). This also applies to employee residents (residential advisers, senior residents and tutors).

The following anti-discrimination laws have particular relevance to this policy:

- Anti-Discrimination Act 1977 (NSW)
- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- Fair Work Act 2009 (Cth)
- Equal Opportunity for Women in the Workplace Amendment Act 2012 (Cth)
- Age Discrimination Act 2004 (Cth)
- Work Health and Safety Act 2011 (NSW)

Harassment, including many forms of bullying and intimidation that do not contravene anti-discrimination law, may make the college unsafe and may also contravene occupational health and safety law. They may also amount to negligence and a breach of the College's duty of care to its employees and residents. In the College environment robust activities and pranks are common. This heightens the need for residents and staff to appropriately differentiate between good fun and harassment.

## 7) Implementation and Responsibilities

### *The Board, Master and staff*

It is the responsibility of all staff to make every reasonable effort to prevent harassment occurring within the College or in association with College activities outside College property.

The Master, Deans and Bursar should ensure that all staff understand this policy and accompanying resource documents developed by the College. In particular each member of the staff should be made aware of the need to:

- be a good role model, not engaging in any behaviour that could be interpreted as harassment, and taking care not to leave themselves open to false allegations of harassment;
- make it clear that they will not tolerate any harassing behaviour from any of our residents or colleagues;
- ensure that the College is free of sexist, racist, or any other type of stereotyping material, posters, screen savers, etc.;
- act immediately if they witness any harassment or overhear someone talking about an act of harassment.

The Master will establish and monitor procedures for the prevention of harassment. Such procedures as a minimum should ensure that:

- staff and residents are made aware of their responsibilities and rights in this area;
- there is a rapid response from staff when harassment is identified;
- in the case of forms of harassment that could constitute criminal behaviour that these are investigated thoroughly and external organizations notified and involved where relevant;
- ongoing monitoring of harassment occurs and that the Board is informed in the case of serious breaches of College policy and procedures.

### *College Residents*

It is the responsibility of all residents to respect the rights of others and ensure that they do not become involved in or encourage harassment. Every resident has the legal right to a work/study environment that is safe, and that is not sexually harassing, sexist, racist, anti-gay, anti-disability, ageist, or stereotyping in any other way.

Residents should be encouraged to help prevent harassment from occurring and should be prepared to offer support to others who they witness being harassed. The latter might include, for example:

- refusing to join in with the harassing behaviour;
- reminding others that they have the legal right to an harassment-free work/study environment;
- telling others that, if they feel able, they can say no to the person or people who are harassing them;
- Informing others that if the harassment does not cease they will report the harassment to a Senior Resident.
- Ensure that they do not victimise any person including students who make a legitimate complaint,
- Ensure that they do not make false, malicious or vexatious complaints

## 8) Complaint Resolution

Substantiated allegations of harassment (including any form of sexual misconduct), bullying or unlawful discrimination will result in disciplinary action being taken against offenders in

accordance with guidelines developed by the NSW Ombudsman for universities for dealing with complaints (NSW Ombudsman, 2015).

There is a potential need for pastoral support of both alleged victim and perpetrator. New College will ensure that both the alleged victim and perpetrator are adequately supported during the investigation. If needed, New College will be responsible for finding and providing suitable alternative secure accommodation for either an alleged victim or to remove an alleged perpetrator. New College will no longer be responsible for finding and providing suitable accommodation in the case where a perpetrator has been charged by the Police.

The complaint resolution procedures include a number of approaches or options for consideration, ranging from one to one resolution for minor matters, through to police investigation of potential criminal behaviour.

While the preferred methodology in most instances is to resolve complaints between members of the College community or within the staff, it is recognised that in some circumstances it may be more appropriate to commence the process at a higher level, and hence our procedures allow for a range of flexible entry points, depending on the nature and seriousness of any complaint.

Residents and staff may also seek external support either in consultation with College staff or independently.

### **9) Review & History**

The policy and related procedures will be revised every five years or as key legislation or University policies require its revision.

### **10) Acknowledgements**

NSW Ombudsman 2015 *Complaint handling at universities: best practice guidelines* ISBN 978-1-925061-24-6, 1 January 2015 (available at <https://www.ombo.nsw.gov.au/news-and-publications/publications/guidelines/universities/complaint-handling-at-universities-best-practice-guidelines> accessed 10 August 2017)

Version	Authorised by	Approval Date	Effective Date	Sections modified
[1.2]	The Board	8 November 2017	Immediately subject to approved revisions	Sections 1, 2, 4, 5 and 6
[1.3]	The Board <b>for public release</b>	21 February 2018	21 February 2018	Sections 1, 3, 4, 5, 6, 7, 8 and 10 in response to review by J. Burke, external reviewer Sexual Harassment Further revisions by Board Policy Committee Minor modifications by the Board. Incorrect dating rectified 8/3/2018

## APPENDIX: SEXUAL MISCONDUCT CHARTER IN UNSW ACCOMMODATION

**Sexual Misconduct Charter in UNSW Accommodation**

All affiliated accommodation providers for UNSW believe in the common pursuit to create strong communities where students of all backgrounds and nationalities are able to thrive academically and otherwise in a compassionate, safe environment where good work is done and life-long friendships are made. It is recognised that in these environments many friendships and relationships will be explored and developed in many different ways. For clarity, this document does not apply to sexual relationships and activities involving consenting adults specifically interaction, flirtation or friendship which is mutual or consensual.

**Sexual misconduct** encompasses any behaviour, physical, verbal or virtual (including social media) which are used to obtain sexual gratification against another's will or at the expense of another. Sexual Misconduct includes sexual harassment, sexual assault, humiliation, and any conduct of a sexual nature that is without consent, or has the effect of threatening the person against whom such conduct is directed.

The undersigned agree that there is an obligation and a responsibility of accommodation providers to ensure that there is zero tolerance for sexual misconduct and unwanted sexual behaviour. **It is a core responsibility of any accommodation community to provide a duty of care to all residents that is characterised by mutual respect, support, safety and the absence of harassment.**

The undersigned agree to the 7 point charter below so as to ensure that the accommodation environments across UNSW have a common pursuit of education, prevention, reporting and proper handling of sexual misconduct and related issues.

1. We recognise and will remain vigilant in our adherence to all federal and state laws that relate to sexual misconduct matters and agree to have all pastoral staff (i.e. College Heads, Deans, Residential Advisors and Academic Tutors) within the college or apartments undertake common training so as to be conversant with the relevant laws.
2. We understand the importance of making young people in any affiliated accommodation aware of the legal, cultural, and individual issues associated with actions that meet the definition of sexual misconduct.
3. We are cognisant of the evidence that shows the negative influence and impact that alcohol and drugs can have in relation to sexual misconduct matters and will ensure that residents are educated about the problems and risks that alcohol and drugs can create.
4. We understand the importance of early intervention and a sensitive, caring, and confidential response to any allegations of sexual misconduct.
5. We agree that the office of the Vice-President Campus Life at UNSW will be made aware at the earliest possible stage of any allegation or matter relating to an incident of sexual misconduct. Where complaints are brought to the attention of College Heads that appear to be breaches of the Law, they will inform the residents concerned that police will be notified. The matter will then be discussed with the

office of the Vice-President Campus Life to discuss the most appropriate action with due cognizance of the individual rights and privacy of any residents involved.

6. We recognise the importance of seeking information from residents by way of surveys, confidential focus groups or other means to ensure that there is a longitudinal record of statistics related to sexual misconduct matters. We will comply with requests from UNSW for information associated with sexual misconduct from UNSW within the limits and constraints of legislated privacy obligations and our duty of care towards our residents.
7. UNSW affiliated accommodation providers will partner with UNSW, local authorities and the UNSW student body to continually improve our education of all staff and residents about sexual misconduct issues to ensure a strong prevention strategy is in place.

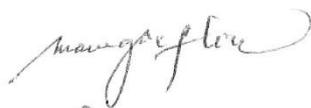
  
Master New College

15/6/16



Master Warrane College

15/6/16



CRESTON COLLEGE

15/6/16



HILTON IMMERMANN  
SHALOM COLLEGE

15/6/16