

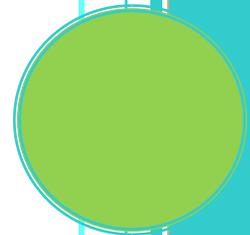
Please note that this is an annotated version of the original report by Ms. Burke. The annotations denote the response of New College to Ms. Burke's review. All annotations are shown in red.

NEW COLLEGE

SEXUAL MISCONDUCT POLICY REVIEW

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Background

The release of The Hunting Ground documentary within Australia engaged the University sector in discussion about prevention of and response to sexual violence connected with universities. Universities Australia subsequently launched a Respect. Now. Always. Initiative in early 2016. UNSW and its affiliate organizations including New College have been active in efforts to prevent and effectively respond to sexual misconduct since this time. In 2017, the Australian Human Rights Commission (AHRC) released *Change the Course: National Report on Sexual Assault and Sexual Harassment at Australian Universities*. This report contains many recommendations. Recommendation 9 is specifically focused on the actions necessary from accommodation providers connected with Australian Universities.

Methodology

New College is preparing a response to the AHRC's recommendation number 9 and requested an independent review of specified documents to assist this process. The following documents were provided:

- Policy 2.7 Critical Incident
- Policy 2.8 Harassment Prevention
- Independent Colleges Sexual Harassment Charter
- New College Retreat Notes 2017
- A Preliminary Response to Recommendation 9 of the Australian Human Rights Commission Report *Change the Course: National Report on Sexual Assault and Sexual Harassment at Australian Universities*.

The policies and accompanying documents were reviewed against current best practice and recommendations within the available literature regarding effective sexual misconduct prevention and response in university and other residential settings. Assessment of the implementation of these guiding documents was beyond the scope of this work.

Recommendations

A total of 39 recommendations are outlined. The recommendations seek to:



1. Promote clarity and consistency in comprehension of sexual misconduct
2. Strengthen prevention of sexual misconduct
3. Improve responses to sexual misconduct
4. Align New College processes with those of UNSW
5. Integrate quality improvements into New College processes

1. Promote clarity and consistency in comprehension of sexual misconduct

There are many terms used to describe sexually inappropriate behaviour. Sexual assault, indecent assault and acts of indecency are defined within section 61 of the NSW Crimes Act (1900). Sexual harassment is defined within the NSW Anti-Discrimination Act (1977) and the Commonwealth Sex Discrimination Act (1984). Sexual violence, sexual misconduct, and sexual misbehavior are terms used to describe the continuum of sexually inappropriate acts ranging from sexual harassment to aggravated sexual assault, including the possession, generation or sharing of child pornography, or sexually explicit material. The utilization of clear and consistent terminology, and the provision of clear information to students and staff at New College is important to robust and effective sexual misconduct management. The following recommendations pursue this aim:

1.1 Ensure consistency of terminology used

- 1.1.1 The Harassment Prevention Policy 2.8 includes reference to sexual assault. Sexual assault is an act of violence rather than harassment.

The revised harassment policy now simply states that sexual assault is a crime.

- 1.1.2 Include acts of indecency and crimes including aggravation in definitions of sexual misconduct.

Definitions of sexual assault, indecency and aggravated forms have been added to the revised harassment policy.

- 1.1.3 The term sexual misconduct is supported by both UNSW Policy and good practice within the field. Delete references to sexual misbehavior.

These references only appeared in the preliminary response and further references to misbehaviour will be avoided.

1.2 Include a definition of consent within policy.

This is now included.



- 1.3 Articulate the rights of a) people who have experienced sexual misconduct and b) people who have allegedly perpetrated sexual misconduct. Include within this articulation:
- 1.3.1.1 The principle of choice and confidentiality for people who have experienced sexual misconduct.
 - 1.3.1.2 The right to report sexual misconduct anonymously
 - 1.3.1.3 That priority will be given to actions taken by Federal and NSW criminal justice systems over internal investigation processes.

These issues have been addressed in the revised Harassment Policy by broadening the scope to encompass all forms of harassment within the college community as well as sexual misconduct.

- 1.4 Document possible sanctions for the perpetration of sexual misconduct and communicate these to residents and staff of New College.

Possible sanctions are addressed within the relevant college directory or handbook. (These had not been provided to the reviewer.)

- 1.5 Expressly prohibit sexual relationships between staff (including Residential Advisors (RAs)) and students.

This now explicit in the revised Harassment Policy.

- 1.6 Ensure that policy articulates that sexual misconduct can be perpetrated using any online site rather than just social media sites.

This now explicit in the revised Harassment Policy.

- 1.7 Ensure accurate articulation about the gratification achieved by perpetrating sexual misconduct. Only some sexual misconduct is perpetrated to achieve sexual gratification.

All references made by college documents do not qualify sexual misconduct in this way except (consistent with the NSW Crimes Act) in relation to voyeurism.

- 1.8 Ensure appropriate articulation of the effects of sexual misconduct. Consider changing from "has the effect of threatening" to "has the effect of causing fear."

All references made by college documents refer to the effects of offense, embarrassment, or scaring.

- 1.9 If the term zero tolerance is to be used, define what this means. Consider the ubiquitous nature of sexual harassment.

The Harassment Policy refers to harassment being "not tolerated". The policy now notes that action will (rather than may) be taken.



- 1.10 Include absence of violence as well as absence of harassment as a core responsibility of accommodation communities.

Any form of assault was already a specific breach of the Harassment Policy.

- 1.11 Incorporate within policy a recognition that all types of sexual misconduct may result in traumatization.

This is true of all types of harassment and the Policy already recognises this.

- 1.12 Incorporate within policy a recognition that not all events of sexual misconduct will be critical incidents. It is common for sexual misconduct to be reported an extended period after the actual events took place.

Rather than decrease policy scope, the Critical Incident Policy now recognises that: only one member may be impacted by a critical incident; and, that an incident may become critical when members of the community become aware of it. It is to be noted that alumni are members of the college community and may fall within the scope.

- 1.13 Ensure that the principles of psychological first aid (rather than critical incident debriefing) underpin interventions for events that have the potential to produce traumatization.

Our Critical Incident Policy was already trauma-informed and has been annotated to make this explicit.

- 1.14 Review the policy directive stating that New College is responsible for finding and providing suitable accommodation except in cases where clear criminal conduct has occurred. Specify who determines whether criminal conduct has occurred, and what directions apply to the sourcing of accommodation if this is determined.

This now explicit in the revised Harassment Policy. The Police determine the occurrence of likely criminal conduct. The policy now states that criminal charges will be a trigger for New College no longer being responsible for providing the accommodation for an alleged perpetrator.

- 1.15 Articulate within policy the support pathways that are available to person/s who have experienced sexual misconduct, and person/s who are alleged to have perpetrated sexual misconduct. The forthcoming UNSW Sexual Misconduct Strategy will contain such information.

Support pathways are a procedural rather than policy matter. These are now articulated within the “New College O’Week 2018” and “Pastoral Training” documents. These will be revised in accordance with UNSW documents as these become available.

2. Strengthen Prevention of Sexual Misconduct

The available literature consistently finds women to be at greater risk of sexual misconduct than men. At the heart of sexual misconduct is gender inequity (Our Watch, 2015). Other dimensions of



differential social power interact with gender to influence perpetration of sexual misconduct. The following recommendations will strengthen New College's efforts to prevent sexual misconduct. Prevention efforts should focus on primary and situational prevention strategies. Secondary and tertiary prevention strategies may be included within the section on Responding to Sexual Misconduct.

- 2.1 Commission an independent review to determine the culture and practices of New College that contribute to the occurrence of sexual misconduct. Include within this review an assessment of the ability of staff and RAs to effectively implement policy regarding sexual misconduct.

Informed and independent reviews were undertaken independently by the New College Students Association (NCSA) and the New College Alumni Consultative Group. These reviews include commentary on the training and abilities of staff and Residential Advisers to implement college policy. Their comments are addressed separately.

- 2.2 Develop and implement a strategy to address gender inequity within New College residences.

This was a specific concern of the NCSA which was addressed within the Master's preliminary response as follows:

In practice, (...) the Administration approach (...) is as follows.

Resident adviser (RA) appointment is a delicate balance of applicants and community engagement. Given the pool of applicants, we endeavour to have an RA (SR at NCV) team that is as gender balanced and community balanced as possible.

The present (academic tutor) AT team composition is a reflection of few (New College) women applying to be ATs for 2017. The appointed AT team for 2018 is closer to balance and a reflection of the applicant pool. Academic competence and ability to tutor are the basis for AT appointment, without discrimination.

In both NC and NCV, there is an aim for a gender balance between Dean and Deputy Dean/SRA positions.

- 2.3 Provide leadership regarding issues of gender equity.

All dealings with residents in relation to gender remain equitable.

- 2.4 Implement evidence based sexual misconduct prevention activities.

From 2018, resident orientation activities will include compulsory workshops in which residents will be required to collaboratively review college policy and procedures with regard to sexual misconduct. This will include practical examples of possible misconduct and



incoming residents will be required to enunciate how college will appropriately respond to a range of incidents.

- 2.5 Include formal assessment of attitudes to gender and sexual misconduct in the recruitment of RAs.

The behaviour of all college members is subject to formal review by RAs/SRs during the course of the academic year with reporting to the Master and relevant Dean. RA/SR recruitment for the subsequent academic year is already subject to review by the college communities. The interview process includes a question regarding the applicant's perception by the college community which is compared with formal reporting. It is not proposed to change these present practices.

- 2.6 Ensure staff as well as students are identified in documentation as potential perpetrators and victims of sexual misconduct.

Harassment Policy scope includes staff, visitors and contractors.

- 2.7 Increase accessibility of supervision at the colleges after hours.

RAs/SRs are presently on call 24 hours/7 days with at least two Deans or a Dean and the Master on call 24 hours/7 days. All official college parties are attended by at least two RAs who will not consume alcohol during the event. New College Village is permitted to reduce this number to one, subject to review and its ongoing good track record.

3. Improve Responses to Sexual Misconduct

When sexual misconduct is reported, a variety of responses may be needed. The sexual assault and harassment systems external to UNSW are multiple, and a robust understanding of the services available is needed to facilitate a smooth transition to desired assistance. Internal processes including assessment of safety, appropriate reporting, and facilitating safety, recovery and redress may also be complex. Managing these complex systems within the context of risk and potential traumatization is indeed challenging. A robust trauma-informed approach with clear processes and adequate training is required. Effectively trained and supervised staff and RAs within New College can facilitate an effective, timely and compassionate response to people who have experienced sexual misconduct, and a fair and effective response to people who have perpetrated sexual misconduct. The following recommendations will assist in achieving this.

- 3.1 Implement a trauma informed approach to responding to sexual misconduct.

Our Critical Incident Policy was already trauma-informed and has been annotated to make this explicit.

- 3.1.1 Trauma informed responses guide the delivery of all aspects of responding from the first moment of disclosure, and are different to trauma specific responses that may be provided by counselling professionals. Adopting a trauma informed



approach includes training staff and RAs to deliver responses in a trauma informed manner, ensuring adequate supervision and support is provided to staff and RAs, and reviewing policy and process within New College to ensure that students who have experienced trauma are responded to in a manner that maximizes their physiological and psychological safety.

Our Critical Incident Policy was already trauma-informed and has been annotated to make this explicit.

Focussed *Managing Students in Distress* training provided by UNSW Counselling and Psychological Services is already given to incoming RAs/SRs.

3.2 Engage experts to provide specialized training to RAs and staff.

3.2.1 Include the following topics in training to RAs and staff: Trauma, trauma informed process, sexual assault and sexual harassment - definitions, incidence and myths, prevention strategies, and internal and external response pathways. An applied learning approach such that trainees can readily apply new skills on the job is required.

This was already part of our RA/SR retreat prior to each college year. The retreat materials have been upgraded to more clearly enunciate our internal college processes in response to concerns raised by this review, the NCSA and the NCACG.

3.3 Provide reporting options such that more than one option for reporting sexual misconduct is available to students at New College.

Residents are advised that they are free to approach any SR/RA and are provided with both the Dean's and Master's mobile phone number so that they can contact them at any time.

3.3.1 Ensure accessible information about UNSW reporting processes, and community reporting processes is provided.

The UNSW reporting portal is new for 2018 and residents will be advised about it accordingly.

3.3.2 Ensure that students can report about sexual misconduct to staff as well as to RAs.

Residents are given direct access to both Dean and Master and invited to report any concerns.

3.4 In cases where sexual misconduct constitutes a breach of legislation, ensure that the person who has experienced sexual misconduct is offered information about how they may report to police or authoritative bodies. Staff and RAs should refrain from activating a police response unless the person who has experienced sexual misconduct desires this action. Where the sexual misconduct may constitute an indictable offence, New College must determine whether they are obligated to report the matter to police

if the person who experienced sexual misconduct is not consenting to this report. In determining this position, New College should consider that the Crimes Act NSW specifies that indictable offences are reportable, and that reporting sexual assault to police without the consent of the person who experienced sexual misconduct may further traumatize those individuals.

This is already part of our college procedures and is addressed within the relevant college directory or handbook. Appropriate modifications to our harassment and critical incident policies have been made. No further modifications to policies or procedures are proposed in response to this specific point.

- 3.5 Define the possible pathways of support available from New College including by referral to external services. The forthcoming UNSW Sexual Misconduct Strategy will contain information about pathways to support.

Since 2017, residents have been advised by our “New College O’Week” documentation about the availability and capabilities of UNSW CAPS. Further revisions will be made when UNSW documents are formally released.

- 3.6 Provide guidance about how to respond to allegations of sexual misconduct if the person alleged to have perpetrated sexual misconduct is the Chair of the Board.

College policy already precludes contact between members of the board and a resident unless another board member is present. Within the college environment, this possibility envisaged is not available to the Chair of the Board. The Board would take responsibility for any allegations against the Board Chair.

- 3.7 Clarify the parameters of reporting sexual misconduct events to the Board. Include which details are reported, who is identified, and what actions the Board takes in relation to this information.

The Master is responsible to the Board for the implementation of the Critical Incident Policy and submits reports to each Board meeting regarding handling of all potential critical incidents. The Board Chair is advised immediately about any urgent matters.

Confidentiality is managed in accordance with confidentiality provisions of the Harassment Policy and the NSW Ombudsman’s report referred to therein.

- 3.8 Ensure that policy contains a recognition that an unfounded allegation of sexual misconduct may be distressing to the person alleged to have perpetrated it even if they are not suffering from some previous trauma.

The Critical Incident Policy has been revised to explicitly recognise an unfounded allegation as a potential trigger for a critical incident.



4. Align New College Processes with those of UNSW

Consistency of approaches to managing sexual misconduct across the entire UNSW community is desirable as this will improve comprehension of reporting and response pathways, enable effective sharing of information, and timely implementation of quality improvements. The following recommendations will increase alignment of New College policies with those of UNSW.

4.1 Review policy regarding reporting of sexual misconduct issues to UNSW.

New College policies presently align with those of UNSW and refer to UNSW policies and procedures as being in force at New College.

4.1.1 The forthcoming UNSW Sexual Misconduct Strategy will provide information about UNSW processes for preventing and responding to sexual misconduct. Once the Strategy and accompanying policy and procedure documents are available, a review of processes regarding sexual misconduct reporting to UNSW will be warranted.

This will be addressed when these documents are released. Processes of reporting to UNSW have already been reviewed. Incoming residents for 2018 will be advised accordingly.

4.2 Ensure all instances of sexual misconduct are submitted to the UNSW Sexual Misconduct Portal. Submit information in a de-identified manner if that is the wish of the person who has experienced sexual misconduct.

This is a UNSW requirement and New College has already agreed to comply.

4.3 Principles for dealing with allegations of sexual misconduct should align with the UNSW Sexual Misconduct Strategy, Policy and Procedure.

New College policies presently align with those of UNSW and refer to UNSW policies and procedures as being in force at New College.

5. Integrate Quality Improvements into New College Processes

The UNSW community including New College is currently strengthening its approach to preventing and responding to sexual misconduct. Effective prevention and response requires a collaborative and reflective approach in which appropriate information sharing, evaluation, reflection, and identification of quality improvements occurs regularly. The following recommendations promote an environment in which prevention and response to sexual misconduct can be continuously improved.

5.1 Strive to increase reporting rates. Low reporting rates indicate silence about sexual misconduct more often than they indicate a low prevalence of sexual misconduct.



Specialist training of SRs/RAs with regard to encouraging disclosure is being introduced to the Pastoral Training Retreat for the 2018 academic year.

- 5.2 Document all actions relating to sexual misconduct prevention and response including reports of sexual misconduct, responses offered, chosen and provided, prevention strategies implemented, and outcomes.

This is already New College practice.

- 5.3 Evaluate the effectiveness of all New College strategies to prevent and respond to sexual misconduct.

The Master and Deans undertake a review of college performance at the end of each academic year.

- 5.4 Collaborate with other business units within the UNSW community to appropriately share information and reflect on quality improvements to sexual misconduct management systems.

The independent colleges collaboratively initiated the charter of accountability in relation to sexual misconduct with UNSW in 2016. Appropriate collaboration and information sharing continues.

- 5.5 Seek to develop, measure and improve competency of staff and RAs regarding prevention of and response to sexual misconduct. Evaluate the effectiveness of training provided to staff and RAs on this topic.

This was addressed under points 5.1 and 5.3 above.

- 5.5.1 Enable staff and RAs to access expert supervision regarding sexual misconduct matters and ensure that staff dealing with sexual misconduct issues access expert vicarious trauma supports.

UNSW CAPS already provides training prior to each academic year. Compulsory Dean and SR/RA debriefings will be held in collaboration with UNSW CAPS at the end of each academic semester/trimester from 2018.

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