

# The University of Queensland Union College Sexual Misconduct Prevention and Response Policy

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## Introduction

The Sexual Misconduct Policy guides and governs conduct within and affecting Union College that falls within the definitions of sexual misconduct, as well as sexual assault and sexual harassment.

The Sexual Misconduct Policy operates in conjunction with the *Resident Code of Conduct* and to the extent of any inconsistency, the Sexual Misconduct Policy prevails if the conduct constitutes sexual misconduct as set out in this Policy.

The purpose of the Sexual Misconduct Policy is to:

- (a) set out expected standards of behaviour further to those set out in the *Resident Code of Conduct*.
- (b) clearly explain the concepts of sexual assault, sexual harassment, and sexual misconduct.
- (c) encourage College residents and visitors to seek help for themselves, or for others, when any situation makes them feel uncomfortable, and report breaches of this Policy.
- (d) guide College residents in creating a community where informed consent and respect for others' choices are valued, and the principles of the Policy are upheld and actively promoted.
- (e) set out the procedures that the College will follow in responding to a disclosure or report; and
- (f) make College residents aware of the support available to them.

The College will act on all reports of sexual misconduct and, where it reasonably can do so, will take appropriate and proportionate action to address them with impartiality and sensitivity.

The College acknowledges that sexual misconduct under this Policy may constitute criminal conduct. College residents and visitors are encouraged to report concerns about criminal conduct to the police and the College will support those who do so.

The College cannot and will not make any determination of criminal conduct, but it can investigate sexual misconduct matters and act in respect of breaches of its rules, policies, and procedures, including the *Sexual Misconduct Policy* or the *Resident Code of Conduct*.

Findings made under this Policy are made "on the balance of probabilities" i.e., whether the alleged behaviour is more or less likely to have occurred than not.

## Scope

The *Sexual Misconduct Policy* covers behaviours that constitute sexual misconduct, sexual harassment, and/or sexual assault, and the procedures followed by Union College when such incidents are reported.

The *Sexual Misconduct Policy* applies to conduct of a resident who resides at Union College or visitor, which:

- (a) occurs on land or property owned or occupied by the College.
- (b) occurs during, or in connection with, any function, activity or event which is sanctioned by the College.
- (c) relates to another College resident or visitor to the College.
- (d) occurs when a person is representing the College in any capacity; or
- (e) otherwise has the potential to affect their suitability to continue as a resident of the College having regard to the wellbeing and safety of other College residents or visitors to the College.

The *Sexual Misconduct Policy* may apply regardless of whether a resident's conduct occurred while they were a resident and may be applied regardless of whether the resident no longer resides at the College.

If you have any questions about this policy, please do not hesitate to contact the Head of College via email at [headofcollege@unioncollegeuq.com.au](mailto:headofcollege@unioncollegeuq.com.au)

The Head of College has a discretion not to proceed in relation to an allegation of misconduct in accordance with this Policy.

This policy document is to be read in conjunction with current The University of Queensland Sexual Misconduct Prevention and Response Policy (1.50 13a).

## Principles

Everyone who lives, studies, or works at Union College has the right to do so in a safe and inclusive environment, and has a role in creating and maintaining such an environment.

All Union College residents and visitors are expected to always maintain respectful relationships and in all circumstances.

The safety, welfare, and support of all College residents and visitors is paramount. We recognise that sexual misconduct may have an adverse impact on those experiencing or witnessing such behaviour and are committed to responding quickly and appropriately supporting anyone who is affected.

Confidentiality and information privacy will be upheld, in accordance with the College's legal obligations, policies and procedures.

We recognise that sexual misconduct may be experienced by all people regardless of their age, gender, or sexuality.

We are committed to providing educational and training opportunities for Union College residents, including developing respectful and consensual interpersonal relationships, sex positive sessions, gender equality policies and practices, sexual misconduct prevention, response protocols and processes.

## Expected conduct

### Active bystander intervention

We encourage and value safe active bystander intervention by College residents and visitors to prevent or stop sexual misconduct, including sexual assault and sexual harassment, from occurring or continuing. To achieve this, we offer active bystander training to students.

Safe active bystander interventions are:

- (a) noticing the situation – paying attention to what is going on nearby.
- (b) deciding if it is a problem – investigating whether someone might need help.
- (c) checking with people around if unsure.
- (d) accepting responsibility to act – not assuming someone else will do something; and
- (e) planning to step in – indirectly or directly confronting the issue, without being aggressive or putting oneself or others in danger. Obtaining informed and positive consent

We expect you to understand consent and requires you to take proactive steps to always obtain informed and positive consent in relation to sexual activity you are engaged in with a partner. In the event of not taking steps to obtain consent will constitute a breach of the *Sexual Misconduct Policy*.

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When you are seeking consent, you have the responsibility to always be certain consent exists. Consent requires more than just saying yes. Consent must be obtained explicitly and through explicit actions. Consent may also be withdrawn at any time.

Everyone must understand that informed consent to a sexual act can only be given by those who are:

- (a) 16+ years old.
- (b) fully conscious, awake and not intoxicated.
- (c) not intimidated, coerced, threatened, or afraid of harm to themselves or someone else.
- (d) free from influence or peer pressure, particularly from an older person; and
- (e) aware of all the relevant facts.

This includes:

- (a) being given sufficient information to understand what they are agreeing to.
- (b) being given a free choice to opt in or out.
- (c) being permitted to change their mind at any time; and
- (d) the fact that a person does not say 'no' or does not 'physically resist a sexual act' does not mean that they consent to the act.

## Conduct which will breach the *Sexual Misconduct Policy* and the *Resident Code of Conduct*

### Sexual assault

Sexual assault is a term used to describe a range of sexual offences, from kissing or touching another person without their consent to penetrating another person's body with a body part or object without their consent. Forcing someone else to commit or witness these acts can also constitute sexual assault.

These acts may constitute a criminal offence. The College encourages that potential criminal conduct is immediately reported to the police. We do not have jurisdiction over criminal complaints or investigations conducted by the Police. However, we will act on conduct that breaches our policies and procedures, particularly where the conduct impacts on the safety, health, and wellbeing of others.

### Sexual harassment

Sexual harassment is any unwanted or unwelcome behaviour of a sexual nature that offends, humiliates, or intimidates an individual or group of people. It may occur as the result of a single incident or repeated incidents, in circumstances where a reasonable person would have anticipated a possibility that the harassed would be offended, humiliated, or intimidated.

Sexual harassment is not interaction, flirtation or friendship which is mutual and consensual.

Sexual harassment may include:

- (a) unwelcome touching, hugging, or kissing.
- (b) inappropriate staring or leering.
- (c) sexual gestures.
- (d) sexually suggestive comments or jokes.
- (e) displaying, sending, or requesting sexually explicit pictures or posters.
- (f) giving sexually explicit gifts.
- (g) making or distributing a sexually explicit audio recording or photo-shopped image of another person.
- (h) repeated or inappropriate invitations to go out on dates.
- (i) intrusive questions about a person's private life or physical appearance; and/or
- (j) requests or pressure for sexual intercourse, or other sexual acts.

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Sexual harassment can occur both verbally and physically, as well as through email, text, messaging, social media posts, and other forms of electronic communication. Acts of sexual harassment may also constitute sexual assault.

### Sexual misconduct

Sexual misconduct refers to any misconduct of a sexual nature, including sexual harassment and sexual assault. It may also be used to describe activity of a sexual nature that is not in and of itself harassment or assault. Where the term is used within this Policy, it should be taken to encompass any inappropriate behaviour, conduct or activity of a sexual nature (particularly where consent is not given), including sexual harassment and sexual assault.

## Reporting

We are committed to promoting a culture of preventing and responding to incidents of sexual misconduct. Should a Union College resident or visitor witness or experience sexual misconduct, they are encouraged to speak to the Deputy Head of College or to a Union College staff member. Union College encourages College students, staff, and visitors to disclose or report any incidents which may be in breach of the *Sexual Misconduct Policy*.

Where possible (and subject to), resident safety and wellbeing and compliance with laws, disclosures or reports of incidents will be kept confidential. This means that participants in any process under the *Sexual Misconduct Policy* will be reminded about the importance of confidentiality and will be expected to adhere to any directions they are given about maintaining and respecting confidentiality.

Failure to comply with directions regarding confidentiality may constitute a breach of this Policy and the *Resident Code of Conduct*.

Our actions to maintain privacy and confidentiality are in no way intended to prevent either the complainant or the respondent seeking other advice, support, or guidance.

Following receipt of a report of sexual misconduct, we will work with the reporting party to explore options of support and follow-up, and to identify procedures for investigation if required in relation to the matter.

We encourage any person who has been a victim of sexual misconduct to report incidents promptly. We will seek to facilitate the efficient handling of any complaint made. Insofar as matters are within the control of the College, we will seek to deal with any reports in a trauma-informed manner and, subject to confidentiality, advise parties to a complaint of progress and outcomes.

If you have experienced or witnessed sexual misconduct, you may also wish to contact the police to make a report.

## Investigations

If we become aware of conduct that may breach the *Sexual Misconduct Policy*, we may instigate an investigation. Any such investigation is concerned solely with a potential breach of this Policy and does not supplant, preclude, or affect any investigation that may also be undertaken by the police or the university at which a resident is enrolled.

Investigations will be conducted in a fair and balanced manner, in accordance with the principles and procedures set out in the *Addressing Concerns and Complaints Policy*.

## Confidentiality

We always aim to deal with matters arising under the *Sexual Misconduct Policy* in a confidential manner and in accordance with the complainant's wishes, to the extent that is appropriate in each case and as far as the maintenance of confidentiality does not conflict with other obligations and responsibilities of the College (including providing appropriate support to its residents).

Decisions to share information without the consent of the complainant may only be made by the Head of College. In such circumstances, the complainant will be informed and given every possible support by the College.

## No victimisation

We encourage residents and visitors to make disclosures and raise concerns or complaints when they witness or experience sexual misconduct so they can be heard, and the issues addressed.

We expect that no person will victimise or otherwise subject another person to detrimental action because of that person:

- (a) making a disclosure or a complaint of sexual misconduct.
- (b) providing information about a disclosure or a complaint of sexual misconduct.
- (c) supporting another person who has made a disclosure or complaint of sexual misconduct; and/or
- (d) engaging in safe active bystander intervention.

Any victimisation may result in consequences including under the *Addressing Concerns and Complaints Policy*.

## Acting honestly and with integrity

You should always act honestly and with integrity. Nobody should make a vexatious or malicious complaint of sexual misconduct or for an improper purpose.

For the purposes of the *Sexual Misconduct Policy*, a complaint will be considered vexatious or malicious if it is made knowingly to be false or for a purpose of damaging the College or the person against whom the complaint is made.

Such conduct may also be considered a breach of the *Resident Code of Conduct*.

## Consequences

If we determine that conduct has occurred which is a breach of the *Sexual Misconduct Policy*, whether after any investigation or otherwise, we may implement consequences as outlined in this section.

For residents, the consequence for breaching the *Sexual Misconduct Policy* will be determined by Union College based on the seriousness of the alleged conduct, the resident's past conduct and behaviour, and the impact on others. As set out in the *Addressing Concerns and Complaints Policy*, the consequences for breaching the *Sexual Misconduct Policy* may include, but are not limited to:

Response	Description
Removal of rights or privileges	This might include access to facilities, activities or events, or eligibility for leadership positions and other positions of responsibility.
Moving of rooms	A requirement that a resident relocate to another room within the College.
Restitution	A requirement that a resident contribute to the costs of repair or compensation for loss or damage which has been incurred because of their conduct.

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Response	Description
Reprimand	A verbal caution that the conduct has breached the Resident Code of Conduct (or other related policy) or could lead to a breach. The College's expectations of future behaviour will be re-stated. A resident may be required to give an apology to any person impacted by the conduct.
Warning	A written warning that the conduct has breached the Resident Code of Conduct (or other related policy). A record will be kept on the College's file. The College's expectations of future behaviour will be re-stated. The resident may be required to give an apology to any person impacted by the conduct.
Suspension	A requirement that a resident remove themselves from college for a set period determined by the College.
Expulsion	A requirement that a resident remove themselves (and all property) from the College permanently and that they cease to be a member of the College and lose all rights as an alumnus/alumna of the College.

For former students, invited guests and any other visitors to the College, the consequences for breaching the *Sexual Misconduct Policy* may include a permanent prohibition on attending College grounds and/or College events.

To be clear, any action by the College does not constitute any finding that supplants, precludes, or affects any action that may be taken by the police or, in relation to a student, any university at which the resident is enrolled.

## Where to go for support and information

### Seeking assistance and support within the College

We encourage anyone who has experienced or witnessed sexual misconduct to seek support as soon as possible.

The UC team members who have received appropriate training to assist them to support victims of sexual misconduct include:

- a) Head of College
- b) Deputy Head of College
- c) Head of Finance and Operations
- d) Operations Manager
- e) Tutorial Coordinator

They will listen non-judgementally, provide support, and guide victims to the right services.

The College will provide both complainants and respondents with referrals for support externally. Seeking assistance and support

If you are at risk of feeling unsafe at college, you may also be at risk of feeling unsafe outside of college (e.g. when attending university classes). To ensure your safety, health, and wellbeing of any student, you may wish to inform those external to college, such as your university of the potential risk.

### Contacting the Queensland Police Force (QPS)

If you, a UC team member, or visitor experiences or witnesses sexual misconduct, they may make a report to the QPS.

If you have any questions about this policy, please do not hesitate to contact the Head of College via email at [headofcollege@unioncollegeuq.com.au](mailto:headofcollege@unioncollegeuq.com.au)



In the event of an investigation being undertaken by the police, the following principles apply:

- a) we will support any Union College resident or staff member who chooses to make a police report at any time, but will not compel anyone to make a report if they do not want to; and
- b) we cannot make a report on behalf of a college resident or staff member but will support any such individual who does so, including accompanying them to the police.