



Sexual Misconduct Policy

(This policy has been developed from the UQ Sexual Misconduct – Policy)

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| Topic | Sexual Assault and Sexual Misconduct Policy |
| Approval Authority | Director |
| Last Approval Date | <i>September 2020</i> |
| Review Date | Annual |
| Related Documents | Resident Code of Conduct Resident Handbook Staff – Manual Policies & Procedures Room & Board Agreement Terms and Conditions Harassment & Discrimination Policy Privacy Policy Social Media Policy |

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Purpose and Objectives

International House (IH) is committed to ensuring that the IH environment is safe, respectful and free from all forms of Sexual Misconduct. This policy outlines the overarching principles governing IH's approach to preventing, addressing and responding to Sexual Misconduct, which is behaviour inconsistent with the core values of IH. This policy is to be read in conjunction with the Sexual Misconduct – Procedures, and other related documents.

Definitions and Terms

Complainant – is a person who makes a disclosure or a formal report on their own behalf. It also includes a person on whose behalf a disclosure or formal report is made by a third party reporter.

Consent – Consent is freely and voluntarily given by a person with the cognitive capacity to do so.

“Consent” is the voluntary agreement to the act or acts in question and to continue to engage in the act or acts. Voluntary agreement to engage in the activity or to continue to engage in the activity must be communicated through words or conduct.

- Consent can be withdrawn at any time during the act or acts in question.
- Consenting to a sexual activity with an individual or individuals does not mean that consent is given for another sexual activity with an individual or individuals, and consent only applies to each specific instance of sexual activity.
- Circumstances in which a person does not consent to an act or acts include:
 - a) the person is asleep or unconscious;
 - b) the person incapable of consenting, such as where they are affected by alcohol or another drug;
 - c) the person submits to the act because of: force or the fear of force; threats or intimidation; fear of harm; exercise of authority; or false or fraudulent representations about the nature or purpose of the act.
 - d) the person submits to the act because of false or fraudulent representation of identity
- No consent is obtainable from a person under the age of 16 years.

Disclosure – is the informal sharing of information regarding Sexual Misconduct.

Formal Report – is providing a formal statement regarding Sexual Misconduct. A formal statement regarding Sexual Misconduct given to the police or another external agency is also considered a Formal Report, provided that IH is made aware of its existence.

Procedural Fairness – is a principle that is applied by IH to ensure that decisions are made in accordance with the rule against bias and the hearing rule (i.e. a person is given

an opportunity to present their case with knowledge of any prejudicial material that may be taken into account by the decision-maker).

Sexual Offence – is any criminal offence of a sexual nature under the criminal law, including the Criminal Code 1899 (Qld) and the Summary Offences Act 2005 (Qld).

Sexual Harassment – happens if a person:

- a) subjects another person to an unwelcome and unsolicited act of physical intimacy; or
- b) makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person; or
- c) makes a remark with sexual connotations relating to the other person; or
- d) engages in any other unwelcome conduct of a sexual nature in relation to the other person;

and the person engaging in the conduct described in (a), (b), (c) or (d) does so–

- e) with the intention of offending, humiliating or intimidating the other person; or
- f) in circumstances where a reasonable person would have anticipated the possibility that the other person would be offended, humiliated or intimidated by the conduct.

Examples of sexual harassment include (but are not limited to):

- a) physical contact such as patting, pinching or touching in a sexual way;
- b) unnecessary familiarity such as deliberately brushing against a person;
- c) sexual propositions;
- d) unwelcome and uncalled for remarks or insinuations about a person's sex or private life;
- e) suggestive comments about a person's appearance or body;
- f) offensive phone calls;
- g) unwanted sexual attention using internet, social networking sites and mobile phones;
- h) indecent exposure;
- i) a publication such as sexually offensive emails or graphics; and
- j) sexually offensive screensavers or posters.

Sexual Harassment is unlawful when it falls within the relevant statutory definition under the Anti-Discrimination Act 1991 (Qld) and/or the Sex Discrimination Act 1984 (Cth).

Sexual Harassment may in certain circumstances be a criminal offence.

Sexual Misconduct – is a broad term encompassing any unwelcome behaviour of a sexual nature without Consent. It includes behaviour that could amount to Sexual Offence and/or Sexual Harassment.

Sexual Misconduct may amount to 'misconduct' or 'serious misconduct' under the Resident Code of Conduct.

Third Party Reporter – is a person who makes a disclosure or a formal report on behalf of or in relation to another person.

Trauma-Informed – understanding, recognising and responding to the impact of trauma, and emphasising physical, psychological and emotional safety and the importance of choice for individuals who have experienced Sexual Misconduct.

IH Community – means current IH residents, staff, Board Members, IH Student Club, other workers, volunteers, visitors and anyone else contractually bound to comply with this Policy.

IH Related Conduct – means any conduct that is connected to IH, including conduct that:

- occurs during, or in connection with, any function, activity or event related to IH (whether sanctioned by IH or otherwise);
- occurs when a person is representing IH in any capacity;
- occurs during, or in connection with, the performance of duties for IH;
- occurs using, or is facilitated by IH resources or other IH equipment; or
- occurs on, or in connection with, any property owned, leased or occupied by IH or any lands or roads within IH.

Victimisation – has the meaning given to that term in the IH Discrimination and Harassment Policy.

A reference to involvement in a proceeding includes involvement in a prosecution for an offence involving Sexual Misconduct, involvement in an IH or external agency investigation, or other process to deal with Sexual Misconduct.

Victimisation does not include any action taken against a person for a false or malicious complaint made against another person in order to prejudice that other person.

Adverse action taken against a person may be unlawful under the Fair Work Act 2009 (Cth) and a person who makes a public interest disclosure under the Public Interest Disclosure Act 2010 (Qld) is protected by that Act.

Policy Statement

The Sexual Misconduct – Procedures will be implemented having regard to the principles outlined below. These principles reflect IH's commitment to preventing all forms of Sexual Misconduct, supporting individuals who are impacted by Sexual Misconduct, and responding appropriately and sensitively when Sexual Misconduct occurs:

1. IH prohibits all forms of Sexual Misconduct, and requires all members of the IH Community to comply with this prohibition.

2. IH acknowledges that education and awareness are important aspects of prevention, and commits to educating residents and staff to assist in the prevention of Sexual Misconduct in the IH Community.
3. Members of the IH Community, particularly staff and resident leaders, are aware of the responsibility they have in responding appropriately when they are made aware of information regarding Sexual Misconduct, particularly taking account of Trauma-Informed approaches.
4. IH acknowledges that Sexual Misconduct may include criminal behaviours and may be unlawful. IH does not have jurisdiction over criminal acts, but can take action in respect of breaches of its rules, policies and procedures.
5. The safety, welfare and support of the IH Community is paramount. IH recognises that any Sexual Misconduct is likely to have an adverse impact on members of the IH Community, and is committed to appropriately supporting those affected.
6. Procedures supporting this policy aim to be Trauma-Informed and afford Procedural Fairness.
7. Disclosure and formal reporting options are intended to be simple, accessible and available through multiple avenues.
8. IH aims to bring sensitivity, timeliness and good management to its responses to disclosures and formal reports and to meet legal requirements.
9. Confidentiality and information privacy will be upheld, in accordance with legislative requirements and IH's policies and procedures.
10. IH will not tolerate Victimisation.
11. IH recognises that Sexual Misconduct may be experience by all people regardless of their sexuality or gender identity, whether heterosexual, lesbian, gay, bisexual, transgender, intersex or queer.

| Version Date | Last Reviewed By |
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| July 2019 | NHR&G Committee September 2020 |
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