



S6 Sexual Misconduct Policy

1. VISION AND VALUES OF DUCESNE COLLEGE

Vision

At Duchesne College (**College**) we are committed to living our vision to inspire personal growth within an inclusive, socially aware community that is impelled to act against actions in contravention of College values.

Values

All students are required to be aware of and act consistently with the College's values as set out in the Statement of Values and Philosophy.

2. SCOPE

This policy is applicable to all College students, associate members, contractors, volunteers and visitors and any person who alleges sexual misconduct by a student, an employee, a contractor or a visitor at the College.

This Policy sets out expected standards of behaviour and the principles for responding to Sexual Misconduct occurring at or in connection to the College.

This Policy and the College's Sexual Misconduct Procedure can only be enacted when:

- a) At the time of the alleged incident/s of Sexual Misconduct, the complainant and respondent were:
 - i. An enrolled College student (resident or associate);
 - ii. An occupant of the College;
 - iii. A guest of a member or members of the College;
 - iv. A contractor to the College; or
 - v. An employee at the College; and
- b) The conduct engaged in:
 - i. Occurred on, or in connection with the College grounds including:
 - i. the College's physical campus and digital platforms; or
 - ii. at events associated or affiliated with the College, such as student clubs, or at a University of Queensland (**UQ**) related event;

- iii. took place at or in connection to any College related function, conference or event or as part of deployment on College business or where a person is a representative of the College (such as student placements, secondments and exchanges); and
- ii. Occurred in connection with the enrolment status of a Student.

Where an incident of sexual misconduct involves at least one member of another college, or of a university or the general public, the College may not be able to deal with such incidents, however, it will provide all such support as is necessary. In such cases, there may be limits on any sanctions the College can impose on that person.

Where incidents of Sexual Misconduct occur in contexts outside of the scope of this Policy, the College still encourages those affected to seek support from the College and the services it can provide. The College recognises that Sexual Misconduct can affect the health and wellbeing of members of the College Community, and this Policy and related Procedure sets out means of recourse and support which may be utilised should such incidents occur.

If you are in danger, please seek assistance, including by contacting 000 immediately. You can seek support under the College's Sexual Misconduct Procedure and from the College community.

3. INTRODUCTION AND PURPOSE

Duchesne College (the **College**) is committed to fostering an environment which is safe and respectful. This policy outlines the overarching principles and key requirements governing the College's approach to preventing, addressing and responding to Sexual Misconduct. Sexual Misconduct is contrary to the College's values and disciplinary action may result in accordance with the College's Statement of Values and Philosophy and may amount to criminal conduct. This policy is to be read in conjunction with the Sexual Misconduct Procedures.

This policy is based on the policy of the University of Queensland (**UQ**). In adopting this policy, Duchesne College notes that:

1. the College adopts the canon law and policies of the Catholic Church, including the National Catholic Safeguarding Standards;
2. the College adheres to the Church's *Towards Healing* and *Integrity in Ministry* protocols;
3. To the extent of any inconsistency between UQ's policy, the canon law and policies of the Catholic Church and the College's Sexual Misconduct Policy, the latter will prevail if the conduct constitutes Sexual Misconduct as defined in this Policy; and
4. the policy operates alongside other related documents of the College listed below under the heading of 'RELATED DOCUMENTS'.

4. POLICY

Guiding principles

These principles reflect the College's commitment to addressing all forms of Sexual Misconduct, supporting individuals who are affected by Sexual Misconduct, and responding to allegations of Sexual Misconduct .

1. Sexual misconduct is unwelcome behaviour of a sexual nature without Consent. It includes behaviour that could amount to a Sexual Offence and/or Sexual Harassment.

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2. The College requires all members of the College Community to comply with this policy. Failure to do so may lead to disciplinary action.
3. Education and awareness are important processes in preventing and responding to Sexual Misconduct aspects of prevention, and commits to educating students and staff to assist in the prevention of Sexual Misconduct in the College's Community.
4. Members of the College Community, particularly the College Leadership Team, are responsible for responding to reports of Sexual Misconduct and are committed to the principles of a Trauma-Informed response.
5. Sexual Misconduct may include criminal conduct and may be unlawful and encourages the reporting to the Police. The College is guided by and has adopted both the Catholic Church's *Towards Healing Protocol* and the *National Catholic Safeguarding Standards* and associated reporting recommendations, which provide that, in circumstances where the alleged perpetrator of Sexual Misconduct is present or former Church personnel (which includes members of the College staff) the matter will be reported to the Police, the Director of the Professional Standards Office of the Catholic Church or the Queensland Catholic Safeguarding Office.

If doubt exists about the obligation to report, the College will seek specific legal advice.

6. The College cannot make any determination of criminal conduct, but it can investigate sexual misconduct matters and take action in accordance with its Statement of Values and Philosophy where the conduct is found to be a breach of its Policies and Procedures.
7. The safety, welfare and support of the College Community is paramount. The College recognises that Sexual Misconduct may have an adverse impact on members of the College Community, and it is committed to providing support.
8. Procedures supporting this policy aim to be Trauma-Informed and afford Procedural Fairness.
9. Confidentiality and information privacy will be upheld, in accordance with legislative requirements and College policies and procedures.
10. The College will not tolerate Victimisation.
11. The College recognises that Sexual Misconduct may be experienced by all people regardless of their sexuality or gender identity, whether heterosexual, lesbian, gay, bisexual, transgender, intersex or queer.

DEFINITIONS

Words or phrases used in this policy and not otherwise defined in this document have the meaning they have in the *Sexual Misconduct Procedures*.

College Community – means current College students, staff, other workers, volunteers, official visitors, recognised individuals, honorary position holders, support position holders, and anyone else contractually bound to comply with this policy.

Consent - can only be 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 including during the act or acts in question for any reason.

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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 (but are not limited to) where:

- a) the person is asleep or unconscious;
- b) the person is incapable of consenting;
- c) the person has impaired decision making capacity;
- d) the person is intoxicated;
- e) the person submits to the act because of:
 - i. force or the fear of force;
 - ii. threats or intimidation;
 - iii. fear of harm;
 - iv. exercise of authority;
 - v. false or fraudulent representations about the nature or purpose of the act; or
 - vi. the person submits to the act because of false or fraudulent representation of identity.

Consent cannot be given by a person under the age of 16 years.

Procedural Fairness – is a principle that is applied by the College 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 Harassment - is conduct of a sexual nature, which is unwelcome and done either with the intention of offending, humiliating or intimidating the person or in circumstances where a reasonable person would have anticipated the possibility that the person would be offended, humiliated or intimidated. Sexual harassment can include (but is not limited to) circumstances where a person:

- a) subjects another person to an 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;

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

Examples for paragraph (a)

- physical contact such as patting, pinching or touching in a sexual way;
- unnecessary familiarity such as deliberately brushing against a person;

Examples for paragraph (b)

- sexual propositions;

Examples for paragraph (c)

- unwelcome and uncalled for remarks or insinuations about a person's sex or private life;
- suggestive comments about a person's appearance or body;

Examples for paragraph (d)

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- offensive telephone calls;
- unwanted sexual attention using internet, social networking sites or mobile phones;
- the distribution of intimate images (meaning a moving or still image that depicts a person engaged in a sexual act, the genital or anal region when it is bare or covered only by underwear, the bare breasts of a female [if the person is transgender or intersex, if they identify as female] or an image which has been altered to appear to show any of the above) without consent;
- the distribution of prohibited visual recordings (meaning a recording of a person engaged in a private act in circumstances where a person would be expected to be afforded privacy or a recording that a person's genital or anal region when it is bare or covered only by underwear, made in circumstances where a person would expect to be afforded privacy) without consent;
- a threat to distribute intimate images or prohibited visual recordings of a person;
- indecent exposure;
- a publication such as sexually offensive emails or graphics;
- sexually offensive screensavers or posters.

Just because someone does not object to inappropriate behaviour at the time, it does not mean that they Consent to the behaviour.

A single incident is enough to constitute sexual harassment – it does not have to be repeated.

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

'Sexual Misconduct' as defined in this policy may amount to 'misconduct' or 'serious misconduct' for the purposes of the Student Integrity and Misconduct Policy and if found to have occurred result in action as provided for in the Statement of Values and Philosophy. .

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).

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

Victimisation – happens if a person does an act, or threatens to do an act against a Complainant, or another person associated with the Complainant, including a witness or Third Party Reporter, because a Complainant, or another person associated with the Complainant:

- has made a Disclosure or Formal Report, or intends to make a police or other external report; or
- in good faith, intends to make a Disclosure or Formal Report, or intends to make a police or other external report; or
- is, has been, or intends to be involved in a proceeding relating to Sexual Misconduct.

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

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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.

RELATED DOCUMENTS

Relevant Legislation	<ul style="list-style-type: none"> • Criminal Code Act 1899 (Qld) • Summary Offences Act 2005 (Qld)
Related Duchesne College Policy Documents	<ul style="list-style-type: none"> • Duchesne College Bullying, Discrimination, Harassment and Hazing Policy • Duchesne College Community Living Handbook • Duchesne College Enrolment Contract • Duchesne College Resident Leader's Handbook • Duchesne College Sexual Misconduct Procedures • Duchesne College Student Code of Conduct <p>Duchesne College Staff Policies</p> <ul style="list-style-type: none"> • Code of Conduct • Discrimination, Bullying and Harassment Policy • Fair Treatment Review Policy • Workplace Health and Safety Policy
Related External Documents	<ul style="list-style-type: none"> • <i>Towards Healing</i> (Catholic Church in Australia) • <i>Integrity in Ministry</i> (Catholic Church in Australia) • <i>National Catholic Safeguarding Standards, Edition 2 2022</i> • The University of Queensland Sexual Misconduct Prevention and Response- Policy • The University of Queensland Student Integrity and Misconduct Policy • The University of Queensland Student Code of Conduct

FEEDBACK

College staff, Students, and parents/guardians may provide feedback or inquiries about this policy by emailing: manager@duchesne.uq.edu.au

APPROVAL AND REVIEW DETAILS

Approval and Review	Details
Policy Approval Authority	College Council
Originally Created	November 2022
Reviewed and Approval Date	28 February 2023
Review Date	01 March 2024
Policy Administrator	Head of College and Chief Executive