



S6 Sexual Misconduct Procedures

1. DEFINITIONS AND TERMS

Words or phrases used in these procedures and not otherwise defined in this document have the meaning they have in the *Sexual Misconduct – Policy*.

Disciplinary Process – is a disciplinary process in relation to a Respondent conducted as part of further action taken by the College in accordance with section 5 below and the Statement of Values and Philosophy.

UQ First Responder Network or FRN – is the group of individuals, coordinated by the University of Queensland, who are trained to assist students to access Support and Reasonable Measures and make Disclosures or Formal Reports of Sexual Misconduct. The FRN is coordinated by the SMSU.

Reasonable Measures – are arrangements or adjustments as defined in section 8 below that may be implemented on a case-by-case basis where a Disclosure or Formal Report has been made.

Respondent – is a person about whom a complaint of Sexual Misconduct is made as part of a Formal Report.

UQ Sexual Misconduct Support Unit or SMSU – is a unit, coordinated by the University of Queensland, responsible for coordinating responses to Disclosures or Formal Reports of Sexual Misconduct within the UQ Community. The SMSU will coordinate an appropriately trained and supported FRN; coordinate appropriate Support; deal with Formal Reports in a timely manner; assist the University in communicating with Complainants, Third Party Reporters and witnesses; and any other matters required from time-to-time to perform its functions.

Support – all reasonable steps to support all parties affected by Sexual Misconduct, which will normally be coordinated by the SMSU or the College, in accordance with section 7 below.

2. Application and Scope

- 2.1. These procedures apply to all College students (including both residents and associate members) and guests of a student or students of the College on College grounds and any person who is subjected to sexual misconduct by a student, at the College and to which the Sexual Misconduct Policy applies.

- 2.2. The Sexual Misconduct Policy and these Procedures do not govern disciplinary processes in relation to students who are alleged to have engaged in Sexual Misconduct. Those processes are governed by the College's Statement of Values and Philosophy.
- 2.3. The College acknowledges that Sexual Misconduct, as defined in the Sexual Misconduct Policy, may include accusations of criminal conduct.
- 2.4. The College has no jurisdiction to determine criminal responsibility but will support any students who report a criminal matter.
- 2.5. In the course of any investigatory or disciplinary process undertaken arising from a Disclosure or Formal Report of Sexual Misconduct, the College confirms that while it cannot make findings in terms of criminal responsibility, it can make findings in respect of breaches of its rules, policies and procedures and take appropriate action in respect of any breach.
- 2.6. Nothing in these procedures prevents students from accessing other procedures available to them, including but not limited to the *Public Interest Disclosure Policy* or the *Student Grievance Resolution Policy*.

3. Prevention and education

- 3.1. All members of the College Community are responsible for personally contributing to the development of a safe and respectful College environment. To assist in this, College staff may, in partnership and collaboration with the UQ SMSU:
 - 3.1.1. establish, oversee and coordinate Sexual Misconduct prevention and response protocols and processes, communications and training.
 - 3.1.2. oversee the delivery of an education program designed to assist in the prevention of Sexual Misconduct in the College Community.
 - 3.1.3. put prevention measures in place with the aim of developing a Trauma-Informed response to disclosures developed in conjunction with subject matter experts as required.

4. How to share information, make a Disclosure or make a Formal Report

- 4.1. If a College student has experienced or witnessed Sexual Misconduct, that person may consider making a Disclosure or a Formal Report. However, nothing in these procedures precludes a person from sharing or talking about Sexual Misconduct to a member of the College Community or any other person if they wish to do so without making a Disclosure or a Formal Report.
- 4.2. A Disclosure or a Formal Report may be made by a Complainant, or a Third Party Reporter.
- 4.3. There are two main differences between a Disclosure and a Formal Report. A Disclosure is a less formal option that is made to access Support and/or Reasonable Measures. A Formal Report is a more formal option that is made to access Support and/or Reasonable Measures, but may also initiate further action by the College such as an investigation and/or a Disciplinary Process pursuant to the Grievance Policy, if the conduct reported is found to be in breach of the College's rules, policies or procedures.

4.4. Nothing in these procedures precludes a person from making a report to the police or another external agency at any time (see section 6 below).

4.5. All Disclosures and Formal Reports will be treated sensitively, addressed in a timely manner and managed in accordance with legal requirements.

4.6. Disclosures

4.6.1. A student may choose to make a Disclosure to:

- a. the College, including to:
 - a. the Head of College, or their delegate; or
 - b. any member of the College's counselling services; or
- b. to the UQ SMSU or the equivalent unit of their enrolling tertiary institution.

4.6.2. If a student makes a Disclosure to the College, the person receiving the Disclosure will take reasonable steps to:

- a. inform the person making the Disclosure of the Support available to them, and of the Reasonable Measures that may be implemented;
- b. outline the options available to the person making the Disclosure to help them determine any next steps they may wish to take;
- c. ask the person making the Disclosure whether they wish to proceed with either a Formal Report or a report to the police or other external agency; and
- d. offer assistance in any other way as appropriate in the circumstances.

4.6.3. If a student makes a Disclosure to the UQ SMSU, or the equivalent unit of their enrolling tertiary institution, the procedures relevant to that institution will apply. UQ's University's Sexual Misconduct Prevention and Response for Student procedure can be located [here](#).

4.6.4. Nothing in this Procedure or related Policy prevents a student from making a disclosure to both the College and the UQ SMSU (or equivalent unit). If a student would prefer to make the disclosure to the UQ SMSU or equivalent unit, the College will continue to provide support and assistance as required.

4.6.5. A Disclosure to the College does not necessarily initiate further action by the College, especially in circumstances where the College cannot obtain sufficient information to enable a proper and fair investigation or where the matter has been referred outside of the College (for example to the Police) or if the matter is already being investigated. If there is a requirement to report the Disclosure to the Police, the College will do so as required by law.

4.6.6. If the student making the Disclosure wishes further action to be taken, they may elect to make a Formal Report.

4.7. Formal Reports

4.7.1. A Formal Report may be made to:

- a. The College, including to:
 - a. the Head of College or their delegate; or
 - b. any member of the College's counselling services; or

- b. the SMSU, UQ or the equivalent unit of their enrolling tertiary institution, or
- c. the police or another external agency.

4.7.2. If a student makes a Disclosure to the College, the person receiving the Formal Report will take reasonable steps to:

- a. inform the person making the Formal Report of the Support available to them, and of the Reasonable Measures that may be implemented;
- b. outline the options available to the person making the Formal Report to help them determine any next steps they may wish to take;
- c. ask the person making the Formal Report whether they wish to proceed with a report to the police or other external agency; and
- d. offer assistance in any other way as appropriate in the circumstances; and
- e. escalate the matter and seek support for the complainant.

4.7.3. If a student makes a Formal Report to the UQ SMSU, or the equivalent unit of their enrolling tertiary institution, the procedures relevant to that institution will apply. The University's Sexual Misconduct Prevention and Response for Student procedure can be located [here](#).

4.7.4. Nothing in this Procedure or related Policy prevents a student from making a Formal Report to both the College and the UQ SMSU (or equivalent unit).

4.8. Anonymous Formal Reports and Formal Reports from a Third Party Reporter

4.8.1. The College may not be able to take further action arising out of anonymous Formal Reports or Formal Reports from a Third Party Reporter in certain circumstances, including but not limited to where:

- a. limited or no information is available to identify the parties involved or from the person the subject of the Sexual Misconduct in the Formal Report; and/or
- b. any further action may not be able to be carried out in accordance with principles of Procedural Fairness.

5. Reporting to the UQ SMSU or equivalent unit

5.1. The basic principles which underpin the College's position on reporting Sexual Misconduct to the UQ SMSU or similar unit at the student's enrolling tertiary institution:

5.1.1. Any person can make a report to the UQ SMSU or similar unit at any time. No-one may compel or prevent any person from reporting or referring a matter to the UQ SMSU or similar unit and no-one should seek to exert any pressure on any person to dissuade them from reporting or referring a matter to UQ SMSU or similar unit;

5.1.2. Generally, it should be the Complainant who decides whether or not they report the matter to the UQ SMSU or similar unit;

5.1.3. The College, will offer Support to a member of the College Community who wishes to report a matter to the UQ SMSU or similar unit.

6. Further Action

- 6.1.** Further action can be taken by the College in response to a Formal Report where the Formal Report concerns College Related Conduct and the Respondent is a member of the College Community as described in the Sexual Misconduct Policy.
- 6.2.** Upon receipt of a Formal Report, the College may commence an investigation. For the purposes of investigating the Formal Complaint. The College may elect to appoint an external investigator. Where an investigation is instigated the College will implement all Reasonable Measures (as provided for in part 8) necessary to reasonably ensure the health and safety of the individual and the fair conduct of the investigation.
- 6.3.** The College will endeavour to conduct the investigation in a timely manner, sensitive to the parties involved.
- 6.4.** Upon receipt of the Formal Report, the College may be required to disclose the matter to The University of Queensland or the Police. Any investigation or Disciplinary Process, is separate from and not related to any criminal proceedings or investigations conducted by the police or other external agency.
- 6.5.** Support and Reasonable Measures will continue to be available to all relevant members of the College Community during and after any investigation or Disciplinary Process.
- 6.6.** The outcome of any investigation or Disciplinary Process may be communicated to the Complainant after the conclusion of any such process and where conduct is found to be in breach of the College's policies and procedures, the Head of College may take action in accordance with its Statement of Values and Philosophy.
- 6.7. Students**
 - 6.7.1.** Where the Respondent is a student, the relevant officer of the College is the Head of College.
 - 6.7.2.** The Formal Report will be considered and may be progressed by the Head of College pursuant to the *Student Integrity and Misconduct Policy*.

7. Reporting to the police or other external agency

- 7.1.** The basic principles which underpin the College's position on reporting Sexual Misconduct to the police or other external agency:
 - 7.1.1.** Any person can make a report to the police or other external agency at any time. No-one may compel or prevent any person from reporting or referring a matter to the police or other external agency and no-one should seek to exert any pressure on any person to dissuade them from reporting or referring a matter to the police or other external agency; and

7.1.2. Generally, it should be the Complainant who decides whether or not they report the matter to the police or other external agency, unless the College has an obligation to report as prescribed by the Sexual Misconduct Policy where the Towards Healing principles apply.

7.1.3. Reports will be made if required to be made under legislation, in accordance with clause 7.4.

7.2. The College, will offer Support to a member of the College Community who wishes to report a matter to the police. There are a number of different ways in which a report can be made to the police, and the College can assist with these options if the complainant Community requires this support.

7.3. Disclosures and Formal Reports will not be reported to the police or other external agency without the consent of the Complainant, except in the limited circumstances set out in section 7.4 below.

7.4. The circumstances under which the College may report a Disclosure or Formal Report to the police or other external agency include:

7.4.1. where the Complainant has consented or asked the College to do so; or

7.4.2. the College is compelled to do so by law;

7.4.3. where the College is required to under the provisions of the Towards Healing Protocol; or

7.4.4. where reporting is, in the reasonable opinion of the Head of College, appropriate in order to lessen or prevent a threat to the life, health or safety of the Complainant, or of another person.

7.5. When reporting any Disclosures or Formal Reports to the police or other external agency, the College will only provide as much information as is required by law, or as necessary for action to be taken.

7.6. Other such external agencies that the Complainant may make a report to include:

7.6.1. Ombudsman Queensland

7.6.2. [Queensland Human Rights Commission](#)

7.6.3. [Australian Human Rights Commission](#)

7.6.4. [Tertiary Education and Quality Standards Agency \(TEQSA\)](#).

8. Support

8.1. The College will take reasonable steps to ensure that Support is provided to all parties affected by Sexual Misconduct.

8.2. This includes, but is not limited to, the Complainant, Third Party Reporters, Respondents, and any witnesses.

8.3. Support will normally be offered or coordinated by the Head of College or their delegate and may include, but is not limited to:

8.3.1. counselling by a qualified counsellor or other mental health professional through the College's counselling services or otherwise;

8.3.2. taking Reasonable Measures (see section 9 below);

8.3.3. assistance in making a Formal Report;

8.3.4. assistance through the process of an investigation and/or a Disciplinary Process;

8.3.5. assistance in making a report to the UQ SMSU, or equivalent unit at the person's relevant tertiary institution; and

8.3.6. assistance in making a report to the police or other external agency.

9. Reasonable Measures

9.1. Where a Disclosure or Formal Report has been made, the College may take Reasonable Measures.

9.2. Parties affected by Sexual Misconduct can make a request for Reasonable Measures. This includes, but is not limited to, a Complainant, Third Party Reporters, Respondents, and any witnesses.

9.3. Reasonable Measures may include but are not limited to:

9.3.1. student housing re-location or short term emergency student housing;

9.3.2. wellbeing and safety planning;

9.3.3. measures to minimise the risk of Victimisation;

9.3.4. residential separation arrangements;

9.3.5. supports for students to access reasonable adjustments through the UQ SMSU or equivalent unit;

9.3.6. or

9.3.7. other safety measures.

9.4. The implementation of Reasonable Measures will be determined on a case-by-case basis, in recognition of the complexities and sensitivities associated with managing Sexual Misconduct, and having regard to College policies and procedures

9.5. Any Reasonable Measures implemented as a result of a Disclosure or Formal Report, during an investigation, Disciplinary Process, or investigation by the police or other external agency, is not a determination as to whether the Sexual Misconduct has occurred.

9.6. In implementing any Reasonable Measures, the College will:

9.6.1. seek to be Trauma-Informed;

9.6.2. consider the risk to the Complainant;

9.6.3. apply the principles of Procedural Fairness;

9.6.4. seek to balance any conflicting rights and interests and ensure Victimisation does not occur;

9.6.5. take into account any relevant external requirements as a result of Sexual Misconduct potentially amounting to a criminal offence;

9.6.6. discuss any proposed Reasonable Measures with affected parties; and

9.6.7. endeavour to negotiate an acceptable outcome for all parties involved.

9.7. At times, meeting the expectations of all parties will be difficult. If an agreement cannot be reached between all parties about the Reasonable Measures, the [college officer] will make a final decision.

10. Records and reporting

10.1. Confidentiality

10.1.1. Information received as part of a Disclosure or Formal Report will be:

a) recorded and kept confidential, except insofar as is necessary for the College to conduct an investigation or Disciplinary Process, or to comply with law;

b) kept separate from, and not linked to, the enrolment, employment and other College records of the Complainant, the Third Party Reporter, or any witness; and

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c) accessible by the person who provided the information if they wish to later use it for the purposes of making a Formal Report or report to the police or other external agency.

10.1.2. For the purposes of establishing patterns of Sexual Misconduct, information received as part of a Disclosure or Formal Report will be anonymised and patterns monitored by the College. The information may also be used to inform prevention and educational programs under section 3 above.

10.1.3. The College will comply with its *Privacy Management – Policy* and *Privacy Management – Procedures*, subject to the provisions of this section 10.

10.2. Reporting and Monitoring

The College will monitor and report to the College Executive during each Risk and Governance Committee meeting:

10.2.1. the number and types of Disclosures made;

10.2.2. the number and types of Formal Reports made;

10.2.3. the number of Disclosures and Formal Reports also reported to the police or other external agency;

10.2.4. whether further action was taken in response to Formal Reports, including the number referred for a Disciplinary Process;

10.2.5. the types of Support provided by the SMSU and the number of instances of each;

10.2.6. the types of Reasonable Measures implemented and the number of instances of each;

10.2.7. time taken to respond to Disclosures and Formal Reports;

10.2.8. any feedback provided by Complainants, Respondents, Third Party Reporters and witnesses in relation to the process;

10.2.9. a summary of any patterns that emerge from the monitoring conducted, including any recommendations for further improving the College's relevant policies and procedures; and

10.2.10. any further statistics it considers necessary from time to time all on an anonymous basis.

11. Ongoing improvement

The College will, on a continuing basis, work to build robust, trauma-Informed best-practice procedures for the response to, and prevention and management of, Sexual Misconduct that may impact the College Community.

FEEDBACK

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

APPROVAL AND REVIEW DETAILS

Approval and Review	Details
Procedure Approval Authority	College Council
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