



DUCHESNE COLLEGE

SEXUAL MISCONDUCT POLICY

Policy No.	W2	Issue date	August 2019
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Authorised by	College Council	Policy owner	Head of College

INTRODUCTION AND PURPOSE

Duchesne College (**the College**) is committed to ensuring that the College environment is safe, respectful and free from all forms of Sexual Misconduct. This policy outlines the overarching principles governing the College's approach to preventing, addressing and responding to Sexual Misconduct, which is behaviour inconsistent with the College's values. 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 is also bound by the canon law and policies of the Catholic Church;
2. the College adheres to the Church's *Towards Healing* and *Integrity in Ministry* protocols;
3. in the case of conflict between UQ's policy and the canon law and policies of the Catholic Church and of the College, the latter will prevail; and
4. the policy operates alongside other related documents of the College listed below under the heading of 'RELATED DOCUMENTS'

SCOPE

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

It covers incidents which occur:

- on College grounds including the College's physical campus and digital platforms;
- as part of deployment on College business or where a person is a representative the College (such as student placements, secondments and exchanges); and
- at a facility associated or affiliated with the College, such as student clubs or study-related camps.

The College policy and its procedures may not apply where a Formal Report is made about someone who is external to the College. In such cases, there are limits on any sanctions the College can impose on that person.

Incidents that occur beyond official College business and beyond College grounds are relevant to the College, and the College 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, regardless of where the incident occurred.

POLICY STATEMENT

Guiding principles

These principles reflect the College's commitment to preventing all forms of Sexual Misconduct, supporting individuals who are affected by Sexual Misconduct, and responding appropriately and sensitively when Sexual Misconduct occurs.

1. Sexual Misconduct is unacceptable. The College prohibits all forms of Sexual Misconduct, and requires all members of the College Community to comply with this prohibition.
2. The College acknowledges that education and awareness are important aspects of prevention, and commits to educating students and staff to assist in the prevention of Sexual Misconduct in the College Community.
3. Members of the College Community, particularly supervisors and managers, are made 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. The College acknowledges that Sexual Misconduct may include criminal behaviours and may be unlawful. The College does not have jurisdiction over criminal acts, but the College is obliged by paragraph 37.4 of the Catholic Church's *Towards Healing* protocol to make a report of criminal conduct to Police, where the alleged perpetrator is present or former Church personnel (which includes members of the College staff). If doubt exists about the obligation to report, the College will seek specific legal advice. The College can take action in respect of breaches of its rules, policies and procedures.
5. The safety, welfare and support of the College Community is paramount. The College recognises that any Sexual Misconduct is likely to have an adverse impact on members of the College 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. The College aims to bring sensitivity, timeliness and good management to its responses to Disclosures and Formal Reports and to meet legal requirements.
9. The safety and wellbeing of the person disclosing or formally reporting Sexual Misconduct is the priority of the College.
10. Confidentiality and information privacy will be upheld, in accordance with legislative requirements and College policies and procedures.
11. The College will not tolerate Victimisation.

12. 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.

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 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 and it includes technology-facilitated sexual harassment such as image-based abuse. It has a meaning similar to the term 'abuse' as that term is defined in the Catholic Church's *Toward Healing* protocol.

'Sexual Misconduct' as defined in this policy may amount to 'misconduct' or 'serious misconduct' for the purposes of the Student Integrity and Misconduct Policy or the Enterprise Agreement.

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.

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.


RELATED DOCUMENTS

- Sexual Misconduct Procedures
- Fair Treatment Policy
- Employee Code of Conduct
- Student Code of Conduct
- Staff Handbook
- Student Handbook
- Work Health & Safety Manual
- Risk & Issues Management Manual
- Critical Incident Procedure
- Incident Reporting Form

External

- *Towards Healing* (Catholic Church in Australia)
- *Integrity in Ministry* (Catholic Church in Australia)

AUTHORISATION

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Role	Chair, Duchesne College Council
Signature	
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