



Wesley College

SEXUAL MISCONDUCT POLICY

Sexual Harassment and Sexual Assault Policy 2023

1. Background

Understanding that all resident students at Wesley College are also members of the University of Sydney means, as appropriate, this policy operates in conjunction with the current policies in place at The University of Sydney, in particular the *Student Sexual Misconduct Policy 2018*.

The following principles of our Values statement will help guide our policy.

Wesley is committed to:

Ensure a continual review and renewal of the highest standards of our culture and community
Accept responsibility
Display respect to others
Respect and support each other
Act responsibly and ensure the safety of others

Wesley College is committed to ensuring that the College environment is free from any form of sexual harassment or sexual assault. This kind of behaviour is not tolerated under any circumstances. Wesley takes a zero tolerance approach to harassment, discrimination, sexual harassment and sexual assault.

Wesley is committed to a comprehensive strategy for ensuring a safe living and working environment. We promote appropriate standards of conduct at all times and encourage the reporting of behaviours which breach this policy. Responsibility for creating a safe and respectful environment rests with all staff and students.

2. Statement of intent

This policy:

1. Prohibits sexual assault and sexual harassment by members of Wesley college;
2. Defines sexual assault and sexual harassment;
3. Explains the difference between a disclosure and a complaint of sexual assault and sexual harassment;
4. Explains when disclosures or complaints about sexual assault require a report to NSW Police;
5. Explains the role of an active bystander;

3. Application

This policy applies to disclosures of sexual assault and sexual harassment from:

1. Current Wesley College students.
2. Current Wesley College staff.

4. Definitions

active bystander	means seeing and recognising a potentially harmful situation and choosing to respond in a safe way that could prevent or stop the harm from happening or continuing
complaint	means a complaint of sexual harassment or sexual assault made
complainant	means a student who makes a complaint of sexual harassment or sexual assault
disclosure	means a disclosure of sexual harassment or sexual assault
guest	means an invited person or visitor to the College, attending an event or visiting a student
resident advisor	an appointed student member of the College who provides pastoral care support for resident students and is assigned an area or floor to oversee.
respondent	means a person whose conduct is the subject of a complaint of sexual harassment or sexual assault
serious indictable offence	is an offence that is punishable by imprisonment for five years or more, such as sexual assault or indecent assault.
staff or staff member	means an employee of the College, including contracted staff.
student	means a residential person, who has signed a 40 week Academic year contract to reside at Wesley College

5. Sexual assault and sexual harassment are prohibited

1. Students, staff and guests must not sexually harass or sexually assault any other person.
2. Behaviour that is intimidating, abusive, disrespectful or threatening, including sexual harassment and sexual assault, is not acceptable and will not be tolerated.

6. Meaning of Sexual Harassment

1. sexual harassment occurs if a person:
 - a) makes an unwelcomed sexual advance, or an unwelcomed request for sexual interaction, to the person harassed; or
 - b) engages in other unwelcomed conduct of a sexual nature in relation to the person harassed.
 - c) Offends, insults, humiliates or intimidates another person with behaviour that is of a sexual nature, for example:
 1. Inappropriate staring or leering;
 2. Unwelcomed touching;
 3. Sexual gestures;
 4. Sexually suggestive jokes or comments;
 5. Sexually explicit pictures, posters or gifts;
 6. Displaying posters, magazines or screensavers of a sexual nature;
 7. Sending sexually explicit emails, text messages or images;
 8. Repeated invitations to go on a date;
 9. Intrusive questions or statements about a person's private life or physical appearance;

- d) Some acts of sexual harassment also constitute sexual assault.

7. Meaning of Sexual Assault

1. The term sexual assault is used in this policy to cover a range of unacceptable sexual and physical behaviours, which are criminal offences. Sexual assault is defined as any unwanted sexual behaviours by one or a group of people against another without their consent.

Sexual assault can happen to people of all ages, genders and sexualities, within or outside a relationship. Sexual assault is an abuse of power, and is never the fault of the person who does not consent to the sexual behaviour.

2. For the purposes of this policy, sexual assault means any sexual act that a person does not consent to, including:
 - a. rape – a term commonly used in the community to describe the forced penetration of the vagina or anus of any person with any part of the body of another person (including their fingers), or with any object, without the first person's consent;
 - b. unwanted oral sex – insertion of the penis into the mouth of another person, or use of the tongue or lips on the vagina or penis of another person, without their consent;
 - c. indecent assault (now known as sexual touching under the NSW Crimes Act) – kissing or touching a person's body in a sexual manner, without their consent. This includes unwanted touching of a person's breast, bottom or genitals.

8. Meaning of Consent

1. For the purposes of this policy, a person consents to a sexual act if they freely and voluntarily consent to the sexual act.
2. A person does not have the capacity to consent to a sexual act when they are:
 - a) Asleep or unconscious;
 - b) Significantly intoxicated by alcohol or affected by drugs;
 - c) Intimidated, coerced or threatened, including when they are afraid of harm to themselves or someone else;
 - d) Unclear about the identity of the person performing the act;
 - e) Tricked into doing something they do not want to do;
 - f) Detained or held against their will; or
 - g) Under 16 years of age.
3. Consent should be explicit. The fact that a person does not say 'no' verbally to a sexual act does not mean that they consent to it.
4. A person is free to withdraw their consent at any time prior to or during a sexual act, for any reason.

9. Disclosures of Sexual Harassment and Sexual Assault

1. Students who have experienced sexual harassment or sexual assault have a right to decide whether they want to disclose the incident to Wesley College, or not.
2. A student of Wesley College can make a disclosure of any incident of sexual harassment or sexual assault to Wesley College by speaking to a member of the pastoral care team, which includes the

Counsellor, the Director of Students, the Director of Programs, the Academic Dean, the Chaplain, the Registrar or the Master or an RA.

3. A student of Wesley College can alternately make a disclosure to The University of Sydney by calling 1800 793 457.
4. A student can make a disclosure of sexual harassment or sexual assault in relation to another student, if they may have witnessed it or been told about it.
5. Students can elect to make disclosures anonymously in writing to a member of the pastoral care team or an RA.
6. Students who are distressed by hearing another student make a disclosure of sexual assault or sexual harassment can obtain support and guidance by speaking to a member of the pastoral care team, which includes the Counsellor, the Director of Students, the Director of Programs, the Registrar, the Academic Dean or the Master or an RA.
7. Wesley College will support students who disclose sexual harassment or sexual assault. Support options are set out in attachment 2 of this policy and of the Wesley College Sexual Harassment and Sexual Assault Response Procedures.
8. Students can make a disclosure (rather than a complaint) of sexual harassment or sexual assault if they do not want Wesley College to investigate or take any action in response to the incident.
9. Students who chose to make a disclosure of sexual harassment or sexual assault may later decide to make a complaint to Wesley College about the same incident. Wesley College will provide guidance on how to make a complaint in person and in the Wesley College Sexual Harassment and Sexual Assault Procedures.
10. Wesley College will treat all disclosures confidentially, and will not investigate a disclosure unless:
 - a) There appears to be an imminent risk to the health or safety of the student or another person; or
 - b) One or more other students name the same perpetrator in a separate incident and or Wesley College is concerned that there may be a risk to the health and safety of other students.
 - c) For any other reason the Master deems necessary.

10. Complaints of sexual harassment and sexual assault

1. Students who have experienced sexual harassment or sexual assault have a right to decide whether they want to make a complaint to Wesley College, or not.
2. A student of Wesley College who has experienced sexual harassment or sexual assault can make a complaint to a member of the pastoral care team, which includes the Counsellor, the Director of Students, the Director of Programs, the Academic Dean, the Chaplain, the Registrar or the Master.
3. A student of Wesley College who has experienced sexual harassment or sexual assault can otherwise make a complaint to The University of Sydney by calling 1800 793 457.
4. A person cannot make a complaint of sexual harassment or sexual assault on behalf of another student. If a student is distressed by hearing another student disclose sexual harassment or sexual assault they can gain support and guidance from a member of the pastoral care team, which includes the Counsellor, the Director of Students, the Director of Programs, the Registrar, the Academic Dean, the Chaplain or the Master.
5. Students who have experienced sexual harassment or sexual assault can make a complaint (rather than a disclosure) if:
 - a) They would like Wesley College to investigate or take specific action; and
 - b) The complaint is about Wesley College related conduct, including conduct by other Wesley College Students, Staff members or guests.

6. Wesley College will support current students of the college who complain about sexual harassment or sexual assault. Details of available support services are set out in attachment 2.
7. In most circumstances, a student wishing to make a complaint of sexual harassment or sexual assault will need to provide their name and the name of other people or persons involved in the incident. Wesley College will not act on anonymous complaints of sexual harassment or sexual assault unless:
 - a) It is not necessary for the respondent to be aware of the identity of the complainant in order to properly respond to the complaint; or
 - b) There is independent documentary or other evidence supporting the complaint and the allegation can be tested fairly.
8. Wesley College will handle complaints of sexual harassment and sexual assault in accordance with the *Wesley College Sexual Harassment and Sexual Assault Procedures*.
9. If a Wesley College Student makes a complaint of sexual harassment or sexual assault by another person over whom the College has no jurisdiction, Wesley College may be required to seek assistance from an external organisation or refer the complainant to an external agency for support and resolution.

11. Confidentiality

1. Except as provided in subclause 12 (4), Wesley College will keep confidential all information relating to a disclosure or complaint of sexual harassment or sexual assault, unless the student consents to disclose of part or all of the information for a specified purpose.
2. Wesley College may collect and use de-identified information about student disclosures and complaints to identify trends and to develop targeted responses to sexual harassment and sexual assault within Wesley College. This may include, notifying the University of Sydney about any disciplinary matters that involve the termination of residency that may result from a disclosure or complaint.
3. Complainants, respondents and any involved person must keep confidential;
 - a) The identity of the complainant, the respondent and any person involved in the resolution or investigation of an incident;
 - b) The information provided or collected during the resolution or investigation of an incident;
 - c) The fact that a complaint has been made;
 - d) The reason for any interim measures taken under section 16;
 - e) Any reports, outcomes or determinations following an incident.
4. A breach of confidentiality may result in disciplinary action, as outlined in the Discipline Policy for Wesley College.

12. Reports to NSW Police

1. Wesley College supports the right of students who have experienced sexual harassment or sexual assault to decide whether they want to report the incident to the NSW police, or not.
2. A student may decide to report an incident to the NSW Police and not to Wesley College. Alternatively a student may decide to report an incident to Wesley College and not to the NSW Police.
3. A student's decision to make a report to the NSW Police will not necessarily preclude Wesley College from investigating or taking action in response to a sexual harassment or sexual assault

complaint. However, it is recognised that any internal Wesley College processes may have to be suspended pending completion of a criminal process.

4. Wesley College is required to report information about a 'serious indictable offence' to the Police in accordance with section 316 of the *Crimes Act 1900 (NSW)*.
5. If a student decides not to report an incident of sexual assault to the Police, Wesley College will use its best efforts to protect the confidentiality of information relating to the student's disclosure or complaint, while meeting its obligations under the *Crimes Act 1900 (NSW)*.
6. In some limited circumstances, Wesley College may need to report an incident of sexual assault to the Police against a student's wishes, to ensure the safety of the student or other members of the College, or to meet the legal obligations required of the College under NSW law.
7. Wesley College will inform the student who has made the complaint before reporting a 'serious indictable offence' to the Police.

13. Active bystander intervention

1. Wesley College supports and values safe active bystander intervention by members of the College to prevent sexual harassment and sexual assault from occurring.
2. Safe active bystander intervention is:
 - a. Noticing a situation and choosing to pay attention rather than looking away;
 - b. Assessing if it is a problem situation, where a person's safety may be at risk, by checking with other onlookers and deciding if a person might need help.
 - c. Accepting responsibility to take action rather than assuming someone else will take action.
 - d. Making a careful plan to intervene in the situation, either directly or indirectly, without being aggressive or putting oneself or others in any danger.

14. No victimisation

1. A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person:
 - d. Making a disclosure or a complaint of sexual harassment or sexual assault;
 - e. Providing information about a disclosure or a complaint of sexual harassment or sexual assault; or
 - f. Engaging in safe active bystander intervention.
2. A breach of this clause may result in disciplinary action including suspension or expulsion from the College.

15. Opportunity to be heard and supported

1. Complaints of sexual harassment and sexual assault will be resolved sensitively, fairly and confidentially, with as minimal disruption as possible.
2. Complainants and respondents will have a reasonable opportunity to state or respond to a complaint orally and or in writing, and to provide any documents relevant to the complaint.
3. Complainants and respondents may be accompanied to any meeting by a support person, if they wish.

16. Interim measures

1. In order to minimise the potential for harm to any person, Wesley college may take an interim measure against a person involved in an incident or during an investigation of sexual harassment or sexual assault by:
 - a. Suspending the residency of a student or person from Wesley College;
 - b. Prohibiting a student or person from Wesley College from contacting or approaching another member of the College.
2. The terms of an interim measure will be put in writing to the person they apply to.

17. Vexatious complaints

1. A student must not make a vexatious or malicious complaint of sexual harassment or sexual assault.
2. Making such a complaint may result in disciplinary action such as suspension or expulsion from Wesley College.

18. Recordkeeping and reporting

1. Wesley College will keep appropriate records of all disclosures and complaints of sexual harassment and sexual assault in a secure location for at least 7 years after the last contact with that student. If the person is under 18 years of age, the college will keep appropriate records until the person is 25 years of age.
2. Access to information relating to a disclosure or complaint of sexual harassment or sexual assault will be restricted to Wesley College staff who have a need to access and use this information in order to carry out their responsibilities under this policy and will comply with Wesley College's *Privacy Policy*.
3. When Wesley College decides to dispose of records relating to disclosures or complaints of sexual harassment and sexual assault, it will be done so securely and confidentially to ensure the information is unidentifiable.

19. Review

1. This policy was created and approved in 2018. The next review will be December 2021.

NOTES

Related Documents referred to within this document:

Sexual Misconduct Policy 2018 (The University of Sydney)

Crimes Act 1900 (NSW)

Privacy and Personal Protection Information Act 1988 (NSW)

State Records Act 1988 (NSW)

Wesley College Discipline Policy

Wesley College Privacy Policy

ATTACHMENT 1

Emergency contacts

1. In an emergency, students should contact emergency services by calling 000.
2. Students who need assistance within Wesley College buildings or grounds can contact our Resident Advisor (RA) number during the academic year (24/7) on **0412 431 793**.
3. Students who feel unsafe or are concerned for someone else's safety can contact the Police Assistance Line on **131 444**.

ATTACHMENT 2

Support for students who have experienced sexual harassment and sexual assault

Students of **Wesley College** can contact:

1. A member of the **pastoral care team at Wesley College**, which includes the **college counsellor, the Director of Students, the Director of Programs, the Academic Dean, the Chaplain, the Registrar or the Master**.
2. **The University of Sydney Counselling and Psychology Services (CAPS)** on 8627 8433, 9am to 4.30pm. Monday to Friday.
3. **NSW Rape Crisis service** on 1800 424 017, 24 hours a day, or online at nswrapecrisis.com.au. They provide telephone and online crisis counselling.
4. **1800 RESPECT** on 1800 737 732, 24 hours a day, or online at 1800respect.org.au. They provide information, counselling and support for people impacted by sexual assault, domestic or family violence and abuse.
5. **NSW Police** formal complaint process on (02) 9550 8199 at 222 Australia Street, Newtown, 24 hours a day. This process will involve providing police with a statement and an offender may be arrested and charged.
6. **NSW Police – Sexual Assault Reporting Option (SARO)** to provide police with information about an incident. This will not initiate a formal police investigation.
7. **1800 SYD HELP** on 1800 793 457 to report an incident to the University of Sydney that may or may not initiate an investigation within the University.
8. **Royal Prince Alfred Hospital Sexual Assault Service** can be contacted on **9515 9040** (Monday to Friday) or **9515 6111** (after hours). Counselling and medical services are available.
9. **Sydney University Security Assistance line** on 9351 3333 (24/7)

ATTACHMENT 3 Support for students who have been accused of sexual harassment or sexual assault

Students of **Wesley College** can contact:

1. A member of the **pastoral care team at Wesley College**, which includes the **College counsellor, the Director of Students, the Director of Programs, the Academic Dean, the Chaplain, the Registrar or the Master**.
2. **The University of Sydney Counselling and Psychology Services (CAPS)** on 8627 8433, 9am to 4.30pm. Monday to Friday.
3. **Eheadspace** online at <https://eheadspace.org.au/register/>
4. **Mensline** on 1300 364 277, 24 hours, if you are a male. You can choose to remain anonymous.