

## SEXUAL ASSAULT AND SEXUAL HARASSMENT (SASH) PROCEDURE

<b>Approving authority</b>	Executive Management Team
<b>Purpose</b>	This procedure outlines the processes for supporting, preventing, monitoring and responding to Sexual Misconduct occurring at or connected with Ozford.
<b>Responsible Officer</b>	Chief Executive Officer
<b>Next scheduled review</b>	January 2022
<b>Document Location</b>	<a href="http://www.ozford.edu.au/higher-education/policies-and-procedures/">http://www.ozford.edu.au/higher-education/policies-and-procedures/</a>
<b>Associated documents</b>	Student Code of Conduct Staff Code of Conduct Student Support and Services Policy and Procedures Anti-Bullying & Harassment Policy and Procedures Anti-Discrimination Policy and Procedures Diversity and Equity Policy and Procedures Critical Incident Policy and Procedures Privacy Policy Social Media (Students) Policy and Procedures Social Media (Staff) Policy and Procedure Student Safety and Wellbeing Framework

### 1. PRINCIPLES

This procedure aims to ensure that Ozford Institute of Higher Education (the “Institute”) complies with *the Higher Education Standards Framework (Threshold Standards) 2015* (HES Framework) which includes a section on wellbeing and safety that requires providers to provide timely and accurate advice on access to student support services and to promote and foster a safe environment on campus and online.

The Institute does not approve any form of sexual harassment/sexual assault (SASH) and expects all stakeholders to treat each other with respect, politeness and consideration. The Institute is committed to providing a respectful, safe and inclusive environment that is free of sexual assault and sexual harassment.

This procedures and related policies will ensure that the Institute has:

- Appropriate **training and information resources** provided to student and staff in preventing, reporting and responding to sexual misconduct.
- An effective approach in **response** to sexual misconduct incidents as they occur;
- Appropriate **support** and counselling services available to those affected;
- Appropriate **disclosure and reporting** of SASH incidents

### 2. SCOPE

This procedure applies to all students and staff at the Institute. This procedure provides a framework for the management of disclosures of sexual assault or sexual harassment and the instruction for reports of sexual assault or sexual harassment.

All students and staff have a personal responsibility to comply with, and demonstrate active commitment to, this policy and related procedures

The Institute recognises that students and staff of the Institute may, while carrying out their duties as a staff member or a student, be subjected to sexual assault or sexual harassment by an individual outside of the Institution. In such situations, the Institute will provide appropriate support including reporting options.

If a case is referred to police for sexual assault matters or the Equal Opportunity Commission (EOC) or to the Australian Human Rights Commission (AHRC) for sexual harassment matters, the Institute will not take any action that will compromise the police investigation or EOC/AHRC complaint resolution process. While accountability for prosecuting criminal acts of sexual assault rests with the local police where the offence occurred, the Institute can take internal action where there is a breach of its rules, code of conduct, policies and procedures for activities and circumstances related to the Institute.

### 3. DEFINITIONS

#### ***Consent***

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 underpins the way the law considers sexual offences (sexual harassment or sexual assault) The law states that consent means 'free agreement' and that both parties must agree to a sexual act in order for there to be consent.

Because the law says both parties must freely agree to the sexual act in order for there to be consent, it also outlines a number of circumstances in which someone is automatically considered to be unable to give consent including if the person:

- is drunk
- is drug affected
- is asleep or unconscious
- is unable to understand the sexual nature of what is happening
- submit because of force or fear of force or harm (including to someone else)
- is held against your will
- is a child
- is mistaken about the identity of the other person
- is led to believe it is for a medical or hygienic purpose
- consent then later withdraw consent to the act

#### ***Sexual Misconduct***

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 Assault and/or Sexual Harassment.

#### ***Sexual assault***

Sexual assault is defined as any unwanted sexual behaviour that causes you to feel humiliation, pain, fear or intimidation.

Sexual assault is an inclusive term used to describe any type of undesirable sexual act inflicted upon a person that they have not freely and voluntarily consented to, have withdrawn consent to, or occurs in circumstances where they are incapable of giving free and voluntary consent. It is inclusive of a variety of undesirable sexual behaviours a person may be subjected to, ranging from activities such as undesirable sexualised touching through to sexual intercourse without consent. Sexual assault can include sexual behaviours that involve the use of force, threats, coercion or control towards a person.

If someone is sexually harassing you in a way that causes you to feel humiliation, pain, fear or intimidation, then this can be considered as sexual assault.

Examples of sexual assault include:

- Rape: forced, unwanted sex or sexual acts.
- Child sexual abuse: using power over a child to involve that child in sexual activity.

- Indecent assault: indecent behaviour before, during or after an assault.

### ***Sexual harassment***

Sexual harassment arises when a person makes an undesirable sexual advance or an undesirable request for sexual favours, directed at another person, or in the presence of another person, or engages in any other undesirable conduct of a sexual nature in relation to another person.

Sexual harassment has nothing to do with mutual attraction or private consenting friendships, whether sexual or otherwise.

Both men and women can be the victims of sexual harassment. If someone is sexually harassing you in a way that causes you to feel humiliation, pain, fear or intimidation, then this can be considered sexual harassment.

Sexual harassment does not need to be repetitive – one incident is enough to constitute sexual harassment and should be reported.

Examples of sexual harassment include:

- persistent, unwelcome demands or even subtle pressures for sexual favours or outings;
- leering, patting, pinching, touching or unnecessary familiarity;
- offensive comments on physical appearance, dress or private life;
- the public display of pornography;
- unwanted comments about a person's sexual activities;
- sexually explicit emails or SMS text messages.

The Institute recognises that comments and behaviour that do not offend one person may offend another. The Institute accepts that individuals may react differently and expects this right to be generally accepted.

### ***Complaints***

A verbal or written communication from students or staff who believe they have encountered sexual assault or sexual harassment, either by another student or staff of the Institute, or a third party provider. A complaint may take the form of either disclosure of an incident of sexual assault or sexual harassment, or a report of an incident of sexual assault or sexual harassment.

## **4. PROCEDURES**

The Institute will take all reasonable steps to prevent or minimise unlawful sexual harassment and sexual assault against staff or students in the workplace and learning environment. All staff are expected, when carrying out their duties, to show respect towards all persons.

### **4.1 Prevention, Training and Awareness**

4.1.1 All staff and students take reasonably practicable steps to ensure that their workplace or learning environment both on campus and online, is free from sexual assault and sexual harassment.

4.1.2 Sexual assault and sexual harassment information; including associated policies, procedures, code of conduct, frameworks, is presented to students and staff during student orientation and staff induction.

4.1.3 Information is also publicly available on the Institute website and Moodle.

### **4.2 Reporting Incidents**

4.2.1 Any staff member who has concerns about, or becomes aware of, conduct that may constitute sexual harassment has an obligation and a duty of care to actively and promptly intervene to prevent such conduct continuing.

- 4.2.2 Student and staff are advised that if they or someone they know have experienced or witnessed sexual harassment, assault, threatening or other sexual misconduct (sexual assault or sexual harassment – SASH) incident on campus of any form, nature or scale, even if they might think it is a minor incident, they are to **report any sexual misconduct incident** to the HOSSA or Student Welfare Officer (Student Services Unit) by email, phone or in person (Contact details available on Ozford website and Student Handbook). Any previously unreported incidents can still be reported.
- 4.2.3 Staff who have been, or are being, sexually harassed can report the matter to their immediate supervisor or manager in the first instance if they feel comfortable to do so and provided that person is not the harasser. Staff who do not want to report the matter to their immediate supervisor can report the matter to a supervisor or manager at the next level of seniority or to SASH Taskforce.
- 4.2.4 Where sexual harassment includes behaviour that may also be considered to be an offence under criminal law, such as physical assault, sexual assault, obscene communications, it is recommended that the victims promptly report the incident behaviour directly to VIC Police.
- 4.2.5 A person may lodge a complaint with an external body at any point of time. Reports of Sexual Misconduct may be made to:
- Victoria Police: Melbourne North Police Station (open 24 hours), 36 Wreckyn Street, North Melbourne. Phone: (03) 8379 0800.
  - Victoria Police Sexual Offences and Child Abuse Investigation Team: Phone (03) 8690 4056.
  - Victorian Equal Opportunity and Human Rights Commission: (Website: [www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au) ). Phone: 1300 292 153.
  - Australian Human Rights Commission: (Website: [www.humanrights.gov.au](http://www.humanrights.gov.au)) Phone: (02) 9284 9600.
  - Fair Work Commission: (Website: [www.fwc.gov.au](http://www.fwc.gov.au) ) Phone: 1300 799 675.
  - WorkSafe Victoria: (Website: [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au) ) Phone: (03) 9641 1444 or 1800 136 089.
- 4.2.6 The Institute may take further action in response to the complaint following the external body's determination.

### 4.3 Responding to Incidents of Sexual Assault and Sexual Harassment

- 4.3.1 In all circumstances where an incident report has been received, the Institute has a responsibility to analyse, respond and take appropriate action to ensure the safety of the reported and any identified third party.
- 4.3.2 When an incident report is received, the HOSSA or the Student Welfare Officer will listen to the reporter, record the details of the incident and provide the reporter with a range of options and support available. The reporter is assured that they will not be victimised for making a report. Their privacy and confidentiality will be maintained at all times.
- 4.3.3 With the permission of the reporter, cases of sexual misconduct will be **investigated** within a reasonable timeframe. Investigation procedures will adhere to the principles of natural justice and will be undertaken by the SASH Taskforce.
- 4.3.4 The reporter will be required to engage with the complaints process, and to provide sufficient details of their complaint to permit Ozford SASH Taskforce to conduct an assessment and investigation of the case.
- 4.3.5 The investigation and response taken will be determined by a range of factors, including but not limited to:

- if the report is anonymous;
- the nature, location, time and other circumstances surrounding the incident
- the reporter's request
- any serious or ongoing risk to the health, safety or wellbeing of any person;
- procedural fairness to the respondent;
- possibility for Ozford to conduct an investigation based on the information available (e.g. whether the parties will participate in the investigation); and
- information about the risks posed by the alleged perpetrator

4.3.6 Where appropriate and with the reporter's consent, the matter will be referred to an appropriate external independent body. Students and staff will be provided with information on the most appropriate body to lodge their complaint with. Reports of Sexual Misconduct may be made to:

- Victoria Police: Melbourne North Police Station (open 24 hours), 36 Wreckyn Street, North Melbourne. Phone: (03) 8379 0800.
- Victoria Police Sexual Offences and Child Abuse Investigation Team: Phone (03) 8690 4056.
- Victorian Equal Opportunity and Human Rights Commission: (Website: [www.humanrightscommission.vic.gov.au](http://www.humanrightscommission.vic.gov.au)). Phone: 1300 292 153.
- Australian Human Rights Commission: (Website: [www.humanrights.gov.au](http://www.humanrights.gov.au)) Phone: (02) 9284 9600.

4.3.7 If a student or staff member pursues a complaint with an external body, it may be appropriate for Ozford to suspend or terminate this assessment/investigation process. However, Ozford may still take steps to address and prevent any Sexual Misconduct.

4.3.8 The SASH Taskforce will determine the most appropriate outcome to respond to the incident. The outcome of the case will be determined by the wishes of the reporter and findings of any investigation and the seriousness of the case. Possible outcomes include:

- A formal apology by the respondent and/or bystanders;
- Seeking an agreement from the respondent and/or bystanders that the unacceptable conduct will cease
- Conciliation/mediation conducted by an impartial third party
- Official warning to the respondent
- Disciplinary action against the respondent
- Imposing restrictions on the respondent's contact with the reporter;
- Counselling for the reporter, respondent and/or other affected parties;
- Mandatory training for the respondent and/or bystanders and other affected parties;
- Terminating the respondent's enrolment/employment
- Supporting the reporter to apply for a Personal Safety Intervention Order to protect the reporter and to prevent the respondent's access to Ozford premises and the reporter's home.

#### **4.4 Support available for students and staff affected by SASH**

4.4.1 Ozford has a zero tolerance towards sexual harassment, sexual assault and any violence and treats all reports or concerns seriously and sensitively. Individuals who make, or who are the subject of a complaint, will be treated fairly and in a supportive manner.

4.4.2 Ozford recognizes that students and staff might experience a range of emotions and it is important for them to know there are support services available at Ozford and outside that can help them.

4.4.3 Ozford provides a range of support to students affected by SASH. Student and staff inputs are valued. Private and confidential personal counselling service to get help and support will be offered to affected students and staff. They will be provided with advice and discuss appropriate support options, suggestion on strategies with coping with the incident and steps to further enhance their safety.

- 4.4.4 Ozford will also support student to make contact and liaise with any internal unit or external agencies for further support if necessary. In their dealings with external parties the reporters will be supported by the HOSSA, Student Welfare Officer or any nominated OIHE staff during the process.

**1800 RESPECT** (24 Hour Counselling Helpline)

1800 737 732

Interpreter 131 450

[www.1800respect.org.au](http://www.1800respect.org.au)

**Sexual Assaults Crisis Line**

03 9635 3610

1800 806 292

[www.casahouse.com.au](http://www.casahouse.com.au)

[casa@thewomens.org.au](mailto:casa@thewomens.org.au)

**Melbourne Sexual Health Centre**

03 9341 6200

[www.mshc.org.au](http://www.mshc.org.au)

- 4.4.5 If the incident happened on campus, Ozford will take further actions to further enhance safety of the campus
- 4.4.6 The SASH Taskforce will ensure that ongoing support is provided to the reporter and any other affected parties, and that they are regularly informed about Ozford's response.
- 4.4.7 Action may be taken against anyone who victimises or retaliates against a complainant or a respondent, or a support person of either a complainant or a respondent.
- 4.4.8 Potential disciplinary action may be taken for the respondent such as suspension or program exclusion for the student or directed apology, counselling and disciplinary action for the staff.
- 4.4.9 In cases where the incidents of sexual harassment/assault result in further investigation as determined by the external parties, the reporters will be supported by the HOSSA, Student Welfare Officer or any nominated OIHE staff in their dealings with both the internal and external parties during the process.

#### **4.5 Report of sexual assault and sexual harassment incidents**

- 4.5.1 The SASH Taskforce is required to keep all SASH records. The data will be collate and an anonymous report will be prepared and presented to the relevant school board as a minimum, every 6 months to monitor the prevalence of Sexual Misconduct in connection with the Institute. Confidentiality and information privacy will be upheld, in accordance to the legislative requirements and the Institute Privacy Policy.
- 4.5.2 Any improvements required to enhance the campus safety will be discussed and implemented as appropriate.

### **5. QUALITY ASSURANCE**

To ensure that this procedure is fit for purpose and meet the requirements of the HES Threshold Standards the procedure will be:

- 5.1 internally approved by the Executive Management Team on development or review
- 5.2 externally reviewed as part of any independent review of the HES Threshold Standards approved by the Governing Board;
- 5.3 internally reviewed by the Responsible Officer every three years from the date of approval (if not earlier).
- 5.4 referenced to the applicable HES threshold Standard and/or other legislation/regulation.

### **6. FEEDBACK**

Feedback or comments on this procedure is welcomed by the listed Responsible officers of the Institute.

## 7. VERSION CONTROL

Version	Date approved	Description	Approved by
1.0	January 2020	Initial	EMT
Related legislation/ regulation/standard	HES Threshold Standards 2015 Standards 2.3.1-2.3.5		