

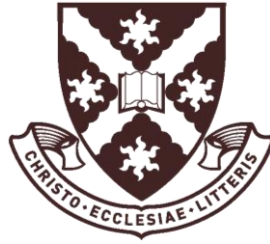
St Andrew's College

ESTABLISHED 1867

HARASSMENT POLICY

AND

PROCEDURES



## **St Andrew's College Harassment Policy and Procedures**

### **A. GENERAL**

#### **1. INTRODUCTION**

- 1.1 It is the policy of St Andrew's College that any form of harassment, including sexual harassment is unacceptable. Further, it is against the law. Students, other occupants and members of staff have the right to live, study and work at the College without being subjected to such behaviour. It is expected that all members of the St Andrew's College community will take steps to uphold this right.
- 1.2 This policy, where appropriate, operates in conjunction with the following policies and procedures of the University of Sydney:
  - Harassment Prevention Policy - Your Rights and Responsibilities (2000) (as amended)
  - Harassment and Discrimination Resolution Procedure (2000) (as amended)
- 1.3 A person may be covered by the St Andrew's College Harassment Policy and also may be covered by the above University of Sydney policy or procedure. If a person activates a procedure outline in the St Andrew's policy then those involved in administering this policy must at all times consider whether the St Andrew's policy is the appropriate policy to operate in the particular case. Persons in considering this must obtain advice from the Principal before either proceeding with the matter or referring the matter.
- 1.4 Nothing in this policy derogates from the Principal's responsibility for College discipline.
- 1.5 In this policy, the following definitions will apply:
  - "External Conciliator" means the person or persons from time to time appointed by the Council on the recommendation of the Principal to act in terms of this policy. The External Conciliator may be the University of Sydney's Manager, Harassment and Discrimination Resolution or such person so appointed to act in this position by the University of Sydney or such other person or persons qualified to act in this capacity and deemed appropriate by the Principal.

## 2. HARASSMENT AND SEXUAL HARASSMENT

2.1 Harassment is any type of behaviour that:

- The other person does not want;
- Offends, embarrasses, or scares them, and
- May be either
  - sexual, or
  - target them because of their actual or imputed race, sex, pregnancy, marital status, transgender, sexual preference or orientation, disability or long term illness, age, family or carers' responsibility, social origin, political belief, lack of political belief (including trade union activity or lack of it, and student association activity or lack of it), religious belief, lack of religious belief, and/or lack of particular religious belief; and
- In the circumstances, a reasonable person should have expected would offend, embarrass, or scare.

2.2 The effect of harassment is to offend, annoy or intimidate another person and thereby make the life of that person uncomfortable or unpleasant. Harassing behaviours may be intended or unintended. They may occur through the words or action or conduct of an individual or a group of people, and may be a single incident or repeated occurrences.

2.3 Harassing behaviours may include

- Jokes based on gender, race, marital status, sexual preference, sexuality/sex, disability, religious belief, etc;
- Material displayed publicly or circulated which is racist, sexist, sexually explicit, homophobic, etc;
- Verbal abuse or comments, including messages transmitted through the telephone system, that denigrate or stereotype an individual because of sex, race, sexual preference, disability, religious belief, etc;
- Sexually or racially offensive gestures;
- Intrusive personal questions;
- Offensive or nuisance telephone calls or messages;
- Urinating, 'brown-eyes' and exhibitionism in public;
- Creating offensive and/or nuisance noise;
- Uninvited entry into rooms including banging of doors, walls and windows of a student's room, sacking or jacking of rooms and wilful destruction of property including vandalism of cars;
- Isolation or segregation of a person or group at meal times or at other times.
- Physical interference with another person against their will;
- Offensive messages, e-mails or other communication.

2.4 In addition to the harassment behaviour already mentioned, sexual harassment may arise from a range of behaviour, including unwelcome:

2.4.1 implicit or explicit demands or requests for sexual activities,

- 2.4.2 physical contact such as patting or pinching, through to more hostile conduct,
- 2.4.3 unwanted observation.

In general, sexual harassment does not arise in the context of mutual sexual attraction that is based on genuine choice and consent.

### 3. STATEMENT OF GENERAL PRINCIPLES

- 3.1 St Andrew's College acknowledges a statutory and moral obligation to take all reasonable precautions to ensure that its students, tutors, staff, resident guests and visitors are not subjected to harassment.
- 3.2 The College expects members of staff to take care to avoid conduct, familiarities or use of language which may be interpreted as sexual harassment. This is particularly important in a teaching or pastoral context.
- 3.3 St Andrew's College will seek to prevent incidents of harassment by means of education and other programs.
- 3.4 St Andrew's College is committed as a matter of policy to doing all that is reasonably practicable to provide an environment in which harassment does not occur. If it does occur, the College is committed to providing appropriate investigation procedures and remedies.
- 3.5 In the event of a complaint of harassment, immediate action will be taken. All members of staff have a duty to ensure that harassment brought to their attention is addressed as soon as possible in accordance with this policy.
- 3.6 Confidentiality will be maintained by all parties (except to the extent otherwise required by law or required for the essential administration of the College).
- 3.7 Nothing will be done or said which indicates an alignment or partiality with the alleged offender or the complainant until an investigation has been concluded.
- 3.8 The College acknowledges that, notwithstanding this policy, anyone who claims to have experienced harassment is entitled to pursue a complaint under the provision of the following acts:

- Anti Discrimination Act 1977 (NSW)
- Racial Discrimination Act 1975 (Commonwealth)
- Sex Discrimination Act 1984 (Commonwealth)
- Disability Discrimination Act 1992 (Commonwealth)
- Human Right and Equal Opportunity Commission Act 1986 (Commonwealth)

and is entitled to use other appropriate resources in the wider community.

### 4. EDUCATION AND INFORMATION

- 4.1 The College recognises that an essential factor in combating harassment is raising awareness within the College community of what constitutes harassing behaviour and, should it occur, of what action may be taken.
- 4.2 Heightened awareness should mean that unintentional offenders will be more conscious of how their behaviour can be perceived, and deliberate offenders will be deterred. If harassment does occur, the victim will know what can be done and will feel confident that his or her complaint will be treated seriously, impartially and confidentially and with appropriate pastoral support.
- 4.3 Students are to be briefed each year in an endeavour to ensure that they have a clear understanding of the College's policy and procedures and are to be supplied with appropriate written information about harassment, including a copy of this policy.

## B. PROCEDURES TO RESOLVE HARASSMENT COMPLAINTS

### 5. HARASSMENT ADVISERS

- 5.1 The Principal will appoint at least two (2) Harassment Advisers, at least one female and at least one male. These persons shall ordinarily be residents of the College.
- 5.2 Harassment Advisers will be chosen for their integrity, approachability and respect for confidentiality.
- 5.3 Harassment Advisers will ensure that they have a clear understanding of the College's and the University's policy and procedures, and the professional and community resources available to them.
- 5.4 Harassment Advisers will be available to people who wish to discuss instances of possible harassment or, more generally, any issue concerning harassment. Their names will be widely promulgated within the College.
- 5.5 Harassment Advisers are expected to treat all complaints seriously, and in strict confidence. It is not necessary for complaints to be in writing, but it is necessary for complainants to identify themselves to the Adviser so that the matter may be resolved.
- 5.6 The overall role of an Harassment Adviser is to be available to listen in a sensitive and understanding manner, to inform, support, and advise complainants of options and, when appropriate, to refer alleged incidents of harassment to the Principal, or the External Conciliator as the Adviser and the complainant agree is desirable.
- 5.7 Harassment Advisers are responsible to the Principal.

### 6. COMPLAINTS PROCEDURE

- 6.1 Anyone who believes that he or she has been the victim of harassment is encouraged to approach an Harassment Adviser. If a serious breach of

College discipline appears to have occurred, the complainant is also encouraged to contact the Principal. The complainant may also approach directly the External Conciliator (see below).

- 6.2 Anyone in a College who is approached by someone wishing to discuss a specific instance of possible harassment should refer that person to a Harassment Adviser. If a serious breach of College discipline appears to have occurred, the complainant should be encouraged to contact the Principal.
- 6.3 The powers of Harassment Advisers when a complaint is brought to them are:
  - a) to help the person clarify if the behaviour perceived as offensive may have constituted harassment and, if so, whether such harassment was perceived to be intentional or unintentional;
  - b) to explain to the complainant the mechanisms of the complaints procedure within this policy;
  - c) to explain to the complainant the confidentiality provisions of the procedures;
  - d) to explore possible strategies by which the person might resolve the difficulty with or without recourse to consultation with the External Conciliator;
  - e) to encourage the complainant to resolve the matter themselves, if appropriate;
  - f) with the complainant's consent, and where appropriate, to attempt to resolve the matters giving rise to the complaint;
  - g) to explore with the complainant whether or not the matter should be referred to an External Conciliator or to the Principal; and
  - h) to advise the complainant of the advantages and disadvantages of pursuing, in the circumstances of the particular complaint, each of the available procedures.
- 6.4 The Harassment Adviser's role is to advise the complainant and not to be part of the process of discipline. A complaint about harassment which alleges a serious infringement of College discipline may, with the complainant's consent, be made or referred to the Principal. As with all alleged infringements of College discipline, this may be handled in accordance with College disciplinary procedures. If the Principal considers that a complainant does not allege a serious infringement of College discipline, the Principal will refer the matter back to an Harassment Adviser or to an External Conciliator.
- 6.5 Where it is appropriate that a matter should be handled by the External Conciliator, the Adviser should facilitate a meeting between the complainant and the External Conciliator. In exceptional circumstances (such as an allegation of serious assault or rape) an Harassment Adviser may, at times after a complaint has been made and before a referral has been made to the External Conciliator, inform the Principal of the names of the parties and the material particulars of the complaint. The Harassment Advisers may so inform the Principal even if the complainant would prefer that this would not occur. In such circumstances, the Harassment Adviser should tell the complainant that he/she intends to inform the Principal about the allegations

and explain the reasons why the Harassment Adviser considers this action to be necessary. The Principal will treat the information given by the Harassment Adviser as confidential but may act if necessary for the purpose of preventing a recurrence or continuation of the alleged conduct.

- 6.6 At the conclusion of the handling of a matter, the Harassment Advisers will submit a brief written report to the Principal on the complaint received.

## 7. EXTERNAL CONCILIATORS

- 7.1 Harassment Conciliators external to the College (hereinafter ‘External Conciliators’) will be appointed by the Principal. There will be at least one External Conciliator. External Conciliators will be experienced persons who have been trained in conciliation techniques appropriate to alleged harassment, and in relevant legislation and procedures.

- 7.2 A complainant may go directly to an External Conciliator or be referred by a College Harassment Adviser or the Principal.

- 7.3 Save in exceptional circumstances, the External Conciliator concerned will inform the Principal when a complaint is lodged directly with the External Conciliator. The Principal will be advised of the names of the parties and of the material particulars of the complaint. The Principal will treat this information as confidential but may act if necessary for the purpose of preventing a recurrence or continuation of the alleged conduct or, if it is serious, impose appropriate disciplinary action. If the Principal decides to take such action, the External Conciliator will be informed of this as soon as possible.

- 7.4 An External Conciliator will investigate all matters referred to him or her. If, after investigation, it is appropriate and it is the wish of the complainant and the person or persons against whom the complaint is being made, the External Conciliator will offer conciliation. The complainant and the person or persons against whom the complaint is being made should be informed that they are under no obligation to participate in such conciliation.

- 7.5 Where appropriate, External Conciliators are to seek to bring about conciliation between parties. They are required not to side with one party against another. They are neutral in the sense that their focus is on conciliating a dispute in accordance with the objectives of conciliation.

- 7.6 The objectives of conciliation are:

- a) to seek to ensure that there is no recurrence of the behaviour that gave rise to the complaint,
- b) to seek to ensure that there are no reprisals arising from the making of the complaint, and,
- c) if the complainant has suffered disadvantage as a consequence of reporting or resisting the harassment, to endeavour to ensure that the situation is redressed.

- 7.7 A successful Conciliation may include:

- Acknowledgement and acceptance by the respondent of the validity of the complaint.
  - A verbal or written apology either to the complainant or to the respondent.
  - A public apology either to the complainant or to the respondent.
  - A verbal or written apology to the College.
  - A requirement that either or both parties receive supervised counselling.
- 7.8 It is recognised that some respondents are genuinely unaware that their conduct has given offence and are prepared to modify this conduct after this matter has been explained by a neutral party.
- 7.9 Where a complaint has been conciliated to the satisfaction of the complainant, the External Conciliator should seek to have the terms of the resolution of the complaint and an undertaking of confidentiality written down and acknowledged by the complainant and respondent by their signatures.
- 7.10 External Conciliators are expected to maintain confidentiality throughout the advising and conciliation process.
- 7.11 An External Conciliator may recommend that a party seek the assistance of the University's Counselling Service or other consultants or services.
- 7.12 Where conciliation was not possible or appropriate and the External Conciliator still believes that further action is warranted the matter must be referred to the Principal for further action.
- 7.13 The College will remunerate External Conciliators for their services.

## 8. COMPLAINTS MADE TO THE PRINCIPAL

- 8.1 A complaint may be made to the Principal:
- a) directly by the complainant;
  - b) if it has been referred by the Harassment Adviser;
  - c) when the conciliation offered by External Conciliator has been refused by the respondent or the complainant or conciliation has failed or is inappropriate;
  - d) the complainant or respondent claims to have been disadvantaged in the process; or
  - e) the situation has not been redressed to either party's satisfaction.
- 8.2 If such a complaint is received, the Principal will inform the respondent as soon as possible and will give the respondent a written account of the complaint. The respondent will have the right of a written reply within a specific time.
- 8.3 The Principal may need to investigate the matter and, if so, will keep both the complainant and the respondent informed of the progress of the investigation.



- 8.4 To assist in the investigation of the matter, the Principal may obtain external assistance. The External Conciliator may be used in this regard. Such investigations are to be reported to the Principal on a confidential basis after the completion of their investigation.
- 8.5 If the complaint is substantiated, the Principal may discipline within the scope of his/her powers. The Principal shall inform both parties of this finding and shall take such measures as are in his/her view appropriate and necessary
- a) to seek to restore the complainant to at least the same standing as at the time when the incident(s) occurred;
  - b) to seek to redress any loss or damage which may have been suffered by the complainant as a consequence of the behaviour giving rise to the complaint or the making of the complaint;
  - c) to seek to ensure as far as possible that the complainant is not subjected to reprisals of any kind by any persons by reason of making the complaint;
  - d) to inform the respondent that sexual harassment involves a breach of the law and of the College policy and is grounds for suspension or expulsion or termination of employment; and
  - e) to ensure that the behaviour is not repeated.
- 8.6 If the Principal believes that the complaint cannot be substantiated but that there is no bad faith on the part of the complainant, both parties will be informed that the matter cannot be resolved within these procedures, but that they are at liberty to pursue the matter elsewhere.

## 9. COMPLAINTS AGAINST THE PRINCIPAL

- 9.1 Anyone who believes that he or she has been the victim of harassment by the Principal is encouraged to approach a College Adviser, the External Conciliator or the Chair of Council.
- 9.2 If the complaint is made against a Principal, the policy and procedures in this document will apply, except that the initial complaint should, normally, be made or referred to the External Conciliator but may be directed to the Chair of Council.
- 9.3 If the complaint is made to the External Conciliator, the External Conciliator will proceed to deal with it as if it was a complaint made or referred under clause 7.3, save that references in clause 7 to the Principal shall read as references to the Chair of Council.
- 9.4 If the complaint is made to the Chair of Council, the Chair may:
- a) refer the matter to the External Conciliator for conciliation; or
  - b) refer the matter to the College Council; or
  - c) take such other action as he/she considers appropriate.
- 9.5 In the event that the Chair of the College Council refers the matter to the External Conciliator for conciliation and conciliation fails, the Chair of

Council may then take the action provided for in the sub-clauses 9.4(b) and/or (c).

- 9.6 If a complaint is made against the Principal, the External Conciliator or the Chair of Council (as the case requires) will inform the Principal as soon as possible and will give the Principal an account of the complaint. The Principal will have the right of written reply within the specific time.

## 10. FURTHER AVENUES FOR COMPLAINTS

- 10.1 Students, tutors and staff members will be informed that the College's procedures can save time and minimise emotional distress and financial expense.
- 10.2 Whether or not these procedures are invoked by students or staff members, the College recognises that complainants nevertheless have the right at any stage to take complaints of harassment to external agencies, including the Police.

## 11. LIMITATION FOR LODGEMENT OF COMPLAINTS AND APPEAL

- 11.1 The College will encourage any person who considers that he/she has been subjected to harassment promptly to initiate action under these procedures. The College will also seek to facilitate the speedy handling of any complaint made.
- 11.2 A complaint may not be made under these procedures later than 12 months after the date on which the harassment is alleged to have taken place.
- 11.3 The procedures set out in this document may be invoked only where
- a) at the time of the alleged offence both complainant and respondent were members of one or more of the following groups: enrolled College students, employed College tutors, employed College staff members, or guests of members of the College and
  - b) at the time the complaint is made:
    - (i) the respondent is a member of one of the following groups: enrolled College students, employed College tutors, employed College staff members; or
    - (ii) the respondent is a person who has been but not longer is a member of one of the abovementioned groups and consents to having the matter dealt with pursuant to these procedures.
- 11.4 If a complaint is active within the procedures of the College and legal proceedings have commenced with regard to that complaint, the complaint shall where appropriate be deferred until completion of legal proceedings.
- 11.5 The complainant or respondent may appeal to the Chair of Council against a decision or the behaviour of the Adviser or the Principal or the External Conciliators, on the grounds of alleged failure to observe due process in the administration of this policy.

## 12. RIGHTS AND RESPONSIBILITIES OF COMPLAINANTS AND RESPONDENTS

12.1 The complainant or the respondent may decline to be involved in conciliation provided by the External Conciliator.

12.2 In any investigation of a complaint

- The complainant and the respondent must initially be interviewed separately.
- The complainant and respondent must be given an opportunity to respond to new information uncovered during the investigation process.
- The complainant and respondent are encouraged to submit their complaint and response in writing.

12.3 The investigation will be carried out in an expeditious and impartial manner.

## C. OTHER MATTERS

### 13. RUMOURS

13.1 Where a complaint has not been made formally but it has come to the notice of the Principal or the House Committee that there are rumours of harassment, they may liaise with the Harassment Adviser about their concern. The Harassment Adviser may then enquire into these matters and determine if a formal complaint will be made. If a complaint is made the normal processes will apply. If no complaint is made no further action will be taken.

13.2 All written material relating to a complaint, such as text of the complaint, response to the complaint, advice to parties involved in the complaint and such file notes as may be kept by College Advisers, the Principal or External Conciliator should not be destroyed and, at the conclusion of the matter, should be retained by the Principal in a secure place for a period of seven years.

### 14. INDEMNITY

14.1 Harassment Advisers are to be indemnified by the College against damages and reasonable costs arising from any legal action taken against them as a result of the performance of their duties provided they act in good faith and within the terms of the present policy and procedures.

The assistance of Wesley College is acknowledged in the preparation of this document