

SEXUAL ASSAULT AND SEXUAL HARRASSMENT (SASH) POLICY

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| Approving authority | Governing Board |
| Purpose | This policy outlines the principles for supporting, preventing, monitoring and responding to Sexual Misconduct occurring at or connected with Ozford. |
| Responsible Officer | Chief Executive Officer |
| Next scheduled review | January 2022 |
| Document Location | http://www.ozford.edu.au/higher-education/policies-and-procedures/ |
| Associated documents | 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 policy 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 accept 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 policy and related procedures 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 policy applies to all students and staff at the Institute. This policy 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 business 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, then 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 local police where

the offence occurred, the Institute can take action where there is a breach of its rules, by-laws, policies and procedures for activities and circumstances related to the Institute matters.

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 this 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 as 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 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 assault.

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. POLICY

4.1 The Institute is committed to ensuring all students and staff work and study in an environment that is free from assaulting and harassment.

4.2 The Institute has a **zero tolerance** toward sexual misconduct and prohibits all forms of sexual misconduct.

4.3 All students and staff have a right to expect professional standard behaviour from others, and a corresponding responsibility to behave professionally towards others at all times.

4.4 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.

4.5 The Institute's has established a SASH taskforce which consists all members of the Executive Management Team under the leading of CEO as the head of the taskforce. This is consistent with OIHE's approach in dealing with Critical Incidents. The CEO has a direct responsibility for overseeing the implementation and monitoring of compliance with this policy and its procedures.

4.5 **Prevention, Training and Awareness** - The Institute acknowledges that education and awareness are important aspects of prevention, and commits to actively informing and training students and staff in preventing, reporting and responding to Sexual Misconduct. Students and staff who wish to make enquiries or complaints are supported and assisted in a professional and fully informed manner.

4.6 **Incident Report** - Ozford encourages its stakeholders to report any alleged incident of sexual misconduct promptly to assist the Institute in making informed changes to keep the campus safe for

members of the Ozford community. All reports of sexual assault and sexual harassment incidents are provided to SASH Taskforce and CEO respectively.

4.7 **Response** - Ozford is committed to treat all reports or concerns seriously and sensitively. Any reported incident of sexual misconduct will be taken seriously, investigated by the SASH Taskforce in a timely manner and if required, reported to the relevant external authority to meet legal requirements and to protect the health and safety of staff and students.

4.8 Ozford acknowledges that alleged Sexual Misconduct incident may constitute unlawful conduct. Ozford has no jurisdiction over criminal acts, but will take action in respect of breaches of its code of conduct, policies and procedures.

4.9 Disciplinary action may be taken against anyone found to have harassed another student or staff member.

4.10 **Support** - Ozford recognises that Sexual Misconduct may be experienced by all people and is likely to have an adverse impact on those affected, and is committed to appropriately supporting students and staff experienced or affected by sexual misconduct.

4.11 Individuals who make, or who are the subject of a complaint, will be treated fairly and in a supportive manner.

4.12 **Data Report** - Ozford will ensure all incident data is kept confidentially and incident data is reported to the EMT, Academic and Governing Board every 6 months to monitor the prevalence of Sexual Misconduct in connection with the Institute.

4.13 Confidentiality and information privacy will be upheld, in accordance to the legislative requirements and the Institute Privacy Policy.

4.14 Any suggested improvement required to enhance the campus safety will be discussed and implemented as appropriate.

5. QUALITY ASSURANCE

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

- 5.1 internally endorsed by the Executive Management Team on development or review, prior to approval by Governing Board, or the Academic Board or other delegated authority;
- 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 policy is welcomed by the listed Responsible officers of the Institute.

7. ACKNOWLEDGEMENT

This policy was initially developed with reference to the following institution policies:
University of South Australia, Sexual Assault and Sexual Harassment Policy and Procedures, Oct 2018
University of Wollongong, Sexual Harassment Prevention Policy, July 2018

8. VERSION CONTROL

| Version | Date approved | Description | Approved by |
|---------|---------------|-------------|--------------|
| 1.0 | January 2020 | Initial | January 2020 |



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| Related legislation/ regulation/ standard | HES Threshold Standards 2015, Standards 2.3.1-2.3.5 |
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