



# Sexual Assault and Sexual Harassment Response Policy and Procedure

## 1. Purpose

This policy and procedure outlines the Institute’s:

- commitment and approach to preventing sexual assault and sexual harassment;
- response to an issue involving sexual assault or sexual harassment; and
- the support available at the Institute in responding to harm from sexual assault and sexual harassment.

## 2. Scope

This policy and procedure applies to all staff, students and former students (where the issue covered by this policy occurred while they were enrolled) of the Institute, and includes any activities where the Institute has a duty of care, which may include activities that are:

- conducted on any of the Institute’s physical campuses;
- conducted online as part of the learning, teaching or student experience;
- conducted in an Institute facility;
- conducted as part of Institute business or as a representative of the Institute (such as field research, student placements, secondments and exchanges); and
- affiliated with the Institute, such as staff conferences or functions, exchanges, cultural events, student clubs/groups or study-related camps.

This policy and procedure does not apply to sexual assault or sexual harassment relating to children or in the context of domestic or family violence.

## 3. Definitions

Term	Definition
Associate	Contractors, consultants, volunteers, visiting appointees and visitors to the Institute.

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Term	Definition
Consent	<p>Consent means free agreement where the person engaging in conduct of a sexual nature reasonably believes that the other person freely agrees to it.</p> <p>A person does not freely agree to an act in the circumstances including the following—</p> <ul style="list-style-type: none"> <li>a) the person submits because of force or the fear of force to that person or someone else;</li> <li>b) the person submits because of the fear of harm of any type to that person or someone else;</li> <li>c) the person submits because she or he is unlawfully detained;</li> <li>d) the person is asleep, unconscious, or so affected by alcohol or another drug as to be incapable of freely agreeing;</li> <li>e) the person is incapable of understanding the sexual nature of the act;</li> <li>f) the person is mistaken about the sexual nature of the act or the identity of the person; or</li> <li>g) the person mistakenly believes that the act is for medical or hygienic purposes.</li> </ul>
designated contact officers	are the Campus Directors and the Managers Office of Student Administration and Experience (OSAE).
disclosure	A person makes a disclosure of sexual assault or sexual harassment to a staff member if the person states that they or another person have been subjected to sexual assault or sexual harassment, and the person who was subjected to the alleged sexual assault or sexual harassment indicates that they do not want to make a report.
Group General Manager	is the person appointed to the position of Group General Manager of the Institute or nominee being of the alternative gender, that allows staff and students who have experienced sexual assault or sexual harassment choice as to who shall receive their report.

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Term	Definition
Misconduct Committee	<p>is the committee established by the CEO to investigate complaints made under clause 5.2.</p> <p>The Misconduct Committee will consist of a minimum of three people and will ensure gender representation.</p> <p>A person will not be appointed a member of the Misconduct Committee who has had any involvement in the matter forming the subject of the hearing or where for any other reason it would be inappropriate for the person to be a member.</p> <p>The Misconduct Committee will report to the CEO.</p>
precautionary actions	are actions designed to ensure the safety and wellbeing of students and staff who have experienced sexual assault or sexual harassment, that may include arrangements to ensure the student or staff member who has experienced sexual assault or sexual harassment and the alleged perpetrator do not encounter each other in class or on campus.
report	A person makes a report if the person states that they want allegations of sexual assault or sexual harassment to be investigated as a matter of misconduct under this policy and procedure.
restricted area	<p>means:</p> <ul style="list-style-type: none"> <li>the Institute safe and/or electronic records accessed only by the Group General Manager, in the case of formal complaints, and</li> <li>the relevant staff or student files in a locked filing cabinet and/or electronic records accessed only by the Campus Director(s), in the case of informal complaints.</li> </ul>
serious sexual assault	includes sexual assault and forms of sexual harassment such as stalking or blackmail that are an offence under criminal law.
schedule	is the Schedule to this policy and procedure containing the contact details for emergency assistance and for ongoing support and assistance referred to in clause 4.4.
sexual assault	Sexual assault means any contact, threat of or intent to have contact, or compelling another person to have contact, of a sexual nature committed without consent

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Term	Definition
	<p>against, toward or with regard to a person, including but not limited to:</p> <ul style="list-style-type: none"> <li>• rape, sexual penetration,</li> <li>• non-penetrative sexual activity,</li> <li>• sexual touching</li> <li>• assault with intent to commit a sexual offence,</li> <li>• threat to commit a sexual offence, and</li> <li>• the administration of a drug or intoxicating substance with the intention of rendering a person incapable of resistance to participation in acts of a sexual nature.</li> </ul>
sexual harassment	<p>Sexual harassment means all unwanted or unwelcome conduct of a sexual nature which a reasonable person would expect to cause the other person to feel intimidated, insulted or humiliated.</p> <p>Sexual Harassment:</p> <ul style="list-style-type: none"> <li>• can occur in a single incident or a series of incidents;</li> <li>• can be experienced by witnessing behaviour not directed to that person, e.g. overhearing a lewd joke;</li> <li>• can affect all genders;</li> <li>• can be physical, spoken, visual or written.</li> <li>• Sexual harassment can include conduct such as (but is not limited to): <ul style="list-style-type: none"> <li>○ sending explicit or sexually suggestive emails, text messages, memos, messages or posts on social networking sites;</li> <li>○ obscene or threatening communications such as phone calls, letters, emails, text messages or posts on social networking sites.</li> <li>○ displaying or sending images, images or footage which are sexually explicit or pornographic;</li> <li>○ making comments or asking intrusive questions about someone's personal life, private life, sex life or the way they look;</li> <li>○ sexually suggestive comments or 'jokes';</li> <li>○ sexually suggestive behaviour such as leering or staring;</li> <li>○ deliberately brushing up against someone, touching, fondling or hugging;</li> <li>○ displaying offensive screen savers, photos, calendars or objects;</li> </ul> </li> </ul>

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Term	Definition
	<ul style="list-style-type: none"> <li>o repeated requests to go out;</li> <li>o requests for sex;</li> <li>o indecent exposure; and /or</li> <li>o unwanted sexual attention.</li> </ul>

## 4. Policy Statement

- 4.1. The Institute does not tolerate behaviour that constitutes sexual assault or sexual harassment. Students, staff, and associates must not engage in sexual assault or sexually harass any other person. Behaviour that is intimidating, abusive, disrespectful or threatening, including sexual assault and sexual harassment, is not acceptable and will not be tolerated.
- 4.2. The first consideration when a person discloses or formally reports their experience of sexual assault or sexual harassment is their safety and wellbeing. The Institute is committed to providing support and assistance to the person, which includes, but is not limited to:
- access to information about appropriate emergency health, counselling, security and accommodation providers;
  - assistance to ensure understanding of the available options, including reporting to Police; and
  - making a formal report to the Institute.
- 4.3. The Institute is committed to providing a safe learning, work and social environment that prevents and is free from sexual assault and sexual harassment by:
- providing regular education, training and communication;
  - setting clear and uncompromising standards of behaviour and strengthening our culture to be inclusive, safe and respectful;
  - encouraging students, staff and associates to disclose and provide information regarding any incident of sexual assault or sexual harassment;
  - promoting and encouraging active bystander intervention;
  - informing and empowering students, staff, and associates to confidently recognise, prevent and respond to sexual assault and sexual harassment and to compassionately and effectively respond to any information they receive in relation to sexual assault or sexual harassment, and to attitudes and behaviours which contribute to sexual assault or sexual harassment;
  - ensuring education, training and resources meet the needs of the Institute community;

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- partnering and collaborating with external agencies;
  - implementing precautionary measures when required;
  - providing resources to support each individual involved in the process of identifying, responding to, and resolving the incident.
- 4.4. Contact details for emergency assistance and ongoing support and assistance for a person who has experienced sexual assault or sexual harassment are set out in Schedule 1. Contact details for support and assistance for a person who is an alleged perpetrator are also set out in Schedule 1.
- 4.5. Students or staff members who have experienced sexual assault or sexual harassment, alleged perpetrators and witnesses, will be treated according to the following principles:
- The Institute prioritises the immediate safety and wellbeing of the person who has disclosed or reported the sexual assault or sexual harassment and their recovery and empowerment;
  - The Institute treats staff and students with respect and dignity, and in a manner consistent with principles of diversity and inclusion, regardless of gender, cultural background, age, sexual orientation, income, social status, physical and cognitive abilities, sexual, medical or mental health history;
  - At all stages of the response, the Institute will take a trauma-informed and strengths-based approach that emphasises physical, psychological and emotional safety for everyone, including to provide assistance to minimise trauma, distress or any other risks to wellbeing arising from reported incidents or the handling of allegations;
  - The Institute accepts and manages disclosures and reports of sexual assault and sexual harassment in a culturally sensitive and compassionate way;
  - The Institute recognises the power imbalances that can exist between staff and students;
  - The Institute facilitates and encourages students to be accompanied by a support person when receiving services from the Institute;
  - The Institute informs students of their options concerning reporting and responding to allegations, and the services and support available to them; and
  - The Institute works to ensure the safety, welfare and support of the Institute community.
- 4.6. The formal investigation process is not a substitute for a criminal process, and people who experience sexual assault or sexual harassment can report their experience to the Police or to the Equal Opportunity and Human Rights Commission in the relevant State.

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## 5. Procedure

### 5.1. Disclosure

Staff and students who have experienced sexual assault or sexual harassment have a right to decide whether they want to disclose or report the incident to the Institute, or not. They may disclose or report an incident to a designated contact officer who will arrange assistance and support, including academic support. Staff and students are entitled to have a support person, or people, with them when they disclose.

Disclosures of sexual assault and sexual harassment may be made on an anonymous basis, where either or both of the student or staff member who has experienced the sexual assault or sexual harassment or alleged perpetrator are not identified. However, anonymous disclosures may limit the Institute's ability to take disciplinary action in relation to the disclosure due to insufficient details of the alleged misconduct or the constraints of procedural fairness.

A student or former student can make a disclosure of any incident of sexual assault or sexual harassment to the Institute online anytime at [studentservices@mit.edu.au](mailto:studentservices@mit.edu.au) or calling **03 8600 6723 (Melbourne) or 02 8267 1403** from 9 am to 5 pm, Monday to Friday.

A staff member can make a disclosure of any incident of sexual assault or sexual harassment to the Institute online anytime to the relevant Campus Director or the Group General Manager.

When students or staff members disclose or report an incident and /or seek assistance, they should be:

- treated fairly, with dignity and respect;
- heard with compassion, not judgement or blame;
- heard by first responders with the assumption that their report is genuine (this also applies to the alleged perpetrator's story);
- afforded privacy for all conversations;
- provided with information about options for reporting within, and external to, the Institute;
- not discouraged from making a formal complaint;
- free to decide which, if any, disclosure or report to make;
- provided with access to support, ideally 24 hours a day;
- responded to in a timely manner;
- reassured of the confidentiality of their disclosure;
- assured that they and the alleged perpetrator will be interviewed by different staff members;

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- kept informed of any action the Institute takes in relation to their disclosure, report or complaint and the expected timelines for resolutions of matters reported to the Institute.

## 5.2. Complaint

The resolution process for a complaint alleging sexual assault or sexual harassment is conducted in four stages:

### **Stage 1 – Reporting an act of sexual assault or sexual harassment:**

Reports of alleged sexual assault or sexual harassment can be made by any person and should be referred to the Group General Manager or nominee, who will determine the level of the alleged sexual assault or sexual harassment as either lesser or serious sexual misconduct.

The Group General Manager will normally only refer the reported sexual assault or sexual harassment to the Police with the consent of the student or staff member who has experienced the sexual assault or sexual harassment;

### **Stage 2 – Considering a report of sexual assault or sexual harassment:**

For most matters, reports of sexual assault and sexual harassment are reviewed, investigated and determined by the Group General Manager, who may implement precautionary actions and impose an appropriate disciplinary outcome where the allegation is substantiated. The determination may be appealed to the Misconduct Committee;

### **Stage 3 – Determination of serious sexual misconduct:**

In cases of serious sexual misconduct, the Misconduct Committee is responsible for hearing and determining the allegation of serious sexual misconduct. At a hearing of the Misconduct Committee, a party to the hearing has the right to:

- be accompanied by a support person who is not a legal practitioner;
- be heard;
- make a written submission;
- be present throughout the hearing;
- call any persons as witnesses; and
- engage an interpreter.

### **Stage 4 - Appealing a decision:**

Decisions made by the Misconduct Committee under Stage 3 may be appealed to the CEO.

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The CEO will, within 5 working day and having due respect for the recommendations of the report:

- confirm the decision;
- vary the decision;
- set the decision aside and substitute a new decision.

**Stage 5-** If the allegation of serious sexual misconduct is substantiated, in whole or in part, the CEO on behalf of the Institute may impose an appropriate disciplinary outcome.

The student or staff member who has experienced sexual assault or sexual harassment and reports the sexual assault or sexual harassment will receive regular and timely communication about the process and its resolution. A student or staff member who has experienced sexual assault or sexual harassment may withdraw their report at any time.

The Institute will observe the principles of natural justice and procedural fairness when considering any formal report about sexual assault or sexual harassment, including those regarding sexual assault or sexual harassment. These principles dictate that any assessment or investigation will be undertaken in a fair, impartial and equitable way. However, the Institute is unable to investigate if it believes a crime has been committed; this is the responsibility of the Police.

The Institute will keep clear, accurate and comprehensive records of all matters in relation to every incident.

### 5.3. Police

There are circumstances where the Institute will consider reporting the matter to the Police when a student, staff member or associate does not want to report the matter to the Police themselves. A report to the Police by the Institute may be made by the Institute on legal advice, following:

- evidence of a clear and unacceptable risk to the Institute or general community;
- multiple disclosures, reports or complaints about the same person;
- the wishes of the person who has experienced sexual harm or misconduct.

These circumstances should be explained to the student or staff member who has experienced sexual assault or sexual harassment at the time of disclosure.

Reporting obligations need to be communicated to the student or staff member who has experienced sexual assault or sexual harassment as soon as possible.

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## 5.4. Confidentiality

The confidentiality and privacy of a person who discloses or formally reports sexual assault or sexual harassment needs to be protected. In addition, they have the right to decide if they want to make a report to the Police, subject to clause 5.3.

There are circumstances in which the Institute's ability to maintain a person's confidentiality and privacy are limited. Key personnel in the Institute may need to know information about the incident to ensure the student's safety, the safety of the broader Institute community and provide appropriate advice to the reporting person.

In addition, the Institute may seek access to others who have the knowledge and skills necessary to respond to disclosures and formal reports in a culturally competent way with students from different communities, including international students.

Except as provided in clause 5.3, the Institute will keep confidential all information relating to a disclosure or complaint of sexual assault or sexual harassment, unless the student or staff member who has experienced the sexual assault or sexual harassment consents to disclosure of part or all of the information for a specified purpose. Subject to this clause, student or staff member who has experienced the sexual assault or sexual harassments and alleged perpetrators must keep confidential:

- the identity of the student or staff member who has experienced the sexual assault or sexual harassment, the alleged perpetrator and participants in the resolution or investigation of a complaint;
- the information provided or collected during the resolution or investigation of a complaint;
- the fact that a complaint has been made;
- any report, outcome or determination of a complaint.

Student or staff member who has experienced the sexual assault or sexual harassments and alleged perpetrators may disclose the information in this clause in order to obtain support or advice from:

- their immediate family members;
- a qualified counsellor or psychologist;
- their student representative or lawyer;
- the Police;
- relevant State or Commonwealth Equal Opportunity or Human Rights agency.

A breach of confidentiality or victimisation of the student or staff member who has experienced the sexual assault or sexual harassment may result in disciplinary action.

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Other parties may be affected by a formal report process. Where the person about whom the report is made (the alleged perpetrator) is also a person to whom the Institute has formal obligations, they have:

- the right to know the details of any reports about them;
- the opportunity to make representations to the Institute in the matter; and
- the right to be treated without bias. Ideally, the Institute should assign a different support officer to the person about whom the report has been made.

## 6. Responsibilities

- 6.1. The Board of Directors, Academic Board and the Executive Management Committee are committed to modelling respectful behaviour and committed to taking responsibility for the wellbeing of the Institute community. An expert review of this policy and procedure and the Institute counselling services will be conducted every three years, reporting to the Board of Directors.
- 6.2. The Institute will continue to develop and implement a range of prevention strategies that address the risks to the Institute's community of experiencing sexual assault and sexual harassment, including for those who may be particularly vulnerable to such risks. Prevention strategies include education, awareness- raising, provision of information, skill building, capacity building, counselling and other supports, and avenues of complaint for students who have experienced sexual assault or sexual harassment.
- 6.3. The Campus Directors are responsible for the ongoing implementation and improvement of measures to prevent and respond to sexual assault and sexual harassment.
- 6.4. The Executive Management Committee, through the Group General Manager, will regularly report to the Board of Directors on:
  - progress of the implementation of measures to prevent and respond to sexual assault and sexual harassment;
  - actions taken on reports and outcomes;
  - key developments in training and education;
  - emerging issues;
  - numbers and nature of reported sexual assaults and sexual harassment incidents and
  - proposed changes to prevention and response measures.

The Student Experience Committee (a standing committee of the Board of Directors) will also receive a copy of the report referred to in clause 6.3, as it refers to students.

- 6.5. The relevant Campus Director will keep records of each complaint and outcome of a formal investigation, including:

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- the names of all parties involved;
- a summary of the issue/s raised, including the remedy or outcome sought; and
- accurate and up-to-date file notes of any action initiated under this policy and procedure.

Such file notes are to be marked strictly confidential and held in a restricted area. The information contained in these notes should be kept to a minimum, stating only facts and relevant details as described by the parties and the outcome of each stage.

In the case of informal resolution, if records are created, they are to be marked strictly confidential and held in a restricted area and retained for 7 years.

In addition, in the case of a formal investigation, the investigator will transfer the records of all interviews conducted and all records reviewed that affect the outcome of the investigation to the Group General Manager to be retained for 15 years.

All students, staff and associates are responsible for maintaining an environment that is free from sexual assault and sexual harassment and where all members of the Institute community are treated with dignity, courtesy and respect.

- 6.6. All members of the Institute community should respond in a compassionate, empathetic and supportive manner to any person who discloses that they have experienced, witnessed or have information about sexual harm and to actively support the person to connect with the support services.

## 7. Implementation and communication

This policy and procedure will be implemented and communicated through the Institute via:

- Announcement on the Institute's website;
- Internal circulation to staff;
- Staff professional development;
- Student orientation programs;
- Student handbook.

### Supporting documents and References

ESOS Act 2000 (Cth)

Anti-Discrimination Act 1977 (NSW)

Crimes Act 1958 (Vic)

Crimes Act 1900 (NSW)

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Equal Opportunity Act 2010 (Vic) Sex

Discrimination Act 1984 (Cth)

TEQSA Good Practice Note: Preventing and responding to sexual assault and sexual harassment in the Australian higher education sector July 2020

## MIT Policies and Procedures

Equal Opportunity Policy and Procedure

Equity and Diversity Policy

Staff Code of conduct

Student General Misconduct Policy and Procedure

Student Welfare and Support Policy

Support for Victims of Domestic Violence Policy and Procedure

Student Charter

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## Schedule 1 –

Contact details for emergency assistance and for ongoing support and assistance

### MIT Melbourne Campus

In an Emergency contact 000

#### During business hours:

Campus Director (03) 8600 6787 **or**

Associate Director Student Administration and Experience (03) 8600 6700

Mobile: 0417 326 495

#### After Hours Emergency Contacts:

Phone: 0418 395 202 Campus Director

Phone: 0417 326 495 Associate Director Student Administration and Experience

### MIT Sydney Campus

In an Emergency contact 000

#### During business hours:

Campus Director (02) 8267 1403 **or**

Associate Director Student Administration and Experience (02) 8267 1402

Mobile: 041 393 4371

#### After Hours Emergency Contacts:

Phone: 0422 003 563 Campus Director

Phone: 041 393 4371 Associate Director Student Administration and Experience

Associate Director OSAE

## Other Emergency contacts

### VIC

In an emergency, students should contact emergency services by dialing triple zero (000).

Students who feel unsafe on campus or are concerned for someone else's safety can also

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contact Campus Security on (03) 8600 6723.

Students and former students who have experienced sexual assault and sexual harassment can contact:

- Sexual Assault Crisis Line 1800 806 292, 24 hours a day or online [www.sara.org.au](http://www.sara.org.au);
- The Royal Women's Hospital CASA House on (03) 9635 3610, 24 hours a day.

Counselling and medical services are available for anyone who has been sexually assaulted.

**Campus security can arrange transport to the Women's.**

**NSW**

In an emergency, students should contact emergency services by dialing triple zero (000).

Students who feel unsafe on campus or are concerned for someone else's safety can also contact Campus Security on 02 82671414.

Students and former students who have experienced sexual assault and sexual harassment can contact:

- NSW Rape Crisis Service on **1800 424 017, 24 hours a day**;
- 1800RESPECT on 1800 737 732 or online via [www.1800respect.org.au](http://www.1800respect.org.au), 24 hours a day;
- Royal Prince Alfred (RPA) Hospital Sexual Assault Service on 9515 9040 (Monday to Friday) or 9515 6111 (after hours).

Counselling and medical services are available for anyone who has been sexually assaulted.

**Campus security can arrange transport to RPA.**

**MIT Support**

Support for students and former students who have experienced sexual assault or sexual harassment or have been accused of sexual assault and sexual harassment:

A student or former student who has experienced sexual assault or sexual harassment can make disclosure or a complaint to the Institute by email:

[studentservices@mit.edu.au](mailto:studentservices@mit.edu.au)

Students who have experienced sexual assault or sexual harassment have access to a range of Institute support services and assistance, including:

- Student Liaison Officers
- emergency accommodation
- security services
- health services (for current students only)

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- counselling services (for current students only)
- disability support
- academic support - special consideration for examinations and assessments; and
- student representation

Staff who have experienced sexual assault or sexual harassment or have been accused of sexual assault or sexual harassment may seek support and assistance through the relevant Campus Directors.

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