



## Sexual misconduct policy

Drafted by:	Principal	Approved by Council on:	V.2, 1 December 2022
Responsible person:	Principal	Scheduled review date:	November 2023

### 1. Introduction

All members of the Jane Franklin Hall community have the right to live, study, socialize, meet and/or work in a safe and inclusive environment. Everyone regardless of their sex, sexual orientation, gender identity, race, ethnicity, religion or abilities has a role in creating and maintaining such an environment.

The College takes a zero-tolerance towards sexual misconduct. It is committed to providing training and awareness-building activities to prevent sexual misconduct. The College is also committed to responding promptly and appropriately where issues of sexual misconduct may have occurred.

### 2. Purpose

This policy outlines the College's commitment towards incidents of sexual misconduct involving members of the College community. The policy focuses on the safety and wellbeing of members of the College community and takes a trauma-informed approach to managing allegations of sexual misconduct.

### 3. Application

This policy applies to:

- 3.1 Everyone who can be reasonably considered as being connected to the current College community: residents, non-resident members, staff, tutors and volunteers including but not limited to Council, Fellows, Chaplains and Council sub-Committee members;
- 3.2 Visitors to the College;
- 3.3 Conduct which:
  - 3.3.1 occurs on land or property owned or occupied by Jane Franklin Hall;
  - 3.3.2 occurs in relation to any project, program or event which has a significant connection to the College;

3.3.3 has the potential to affect a community member's suitability to continue as a member of the College having regard to the wellbeing and safety of the College community;

3.3.4 occurs through online communications such phones, computers, social media or other communication platforms and devices.

#### 4. Policy Principles

- 4.1 All members of the College community have the right to expect respectful behaviour from others and have personal responsibility to behave respectfully towards others.
- 4.2 All members of the College community have a duty to take all reasonable steps to prevent and report sexual misconduct.
- 4.3 All members of the College Community will demonstrate behaviours which are consistent with the Jane values and the Code of Conduct.
- 4.4 All students of the College who are also students of the University of Tasmania must comply with the University of Tasmania Behaviour Policy and Procedure.
- 4.5 A conflict of interest arising from a personal relationship between a Senior Member of the College and a student with whom there is direct professional relationship must be appropriately, transparently managed by the Senior member and notified immediately to their supervisor or to the Principal.
- 4.6 Development of a close personal or intimate relationship between a Senior Member of the College and a student with whom there is a professional relationship is not appropriate, although Senior Residents may be exempt in certain circumstances which should be discussed with the Dean of Students.
- 4.7 Care and consideration for a person's wellbeing will always be the primary focus of the College in responding to any disclosure or complaint of sexual misconduct.
- 4.8 The College may take action it considers necessary to ensure the immediate safety and wellbeing of all community members.
- 4.9 Procedures to support disclosures and formal complaints of sexual misconduct will be simple and accessible.
- 4.10 College community members will be active in speaking up and reporting incidents of sexual misconduct.
- 4.11 Complainants will be fully informed of their available reporting and support options.
- 4.12 The confidentiality and privacy of parties involved in a disclosure or complaint will be maintained to the extent possible, noting that the College may need to inform key personnel at the College, the University of Tasmania or Tasmania Police to progress a matter, to ensure the safety of

individuals or the wider community and/or comply with mandatory reporting obligations at law or University reporting obligations.

- 4.13 Under the Tasmanian *Children, Young Persons and Their Families Act 1997*, the College is required to make a mandatory report to Tasmania Police or to share information with other mandatory reporters where the complainant is aged under 18.
- 4.14 Complaints will be dealt with promptly, noting that sometimes timeframes need to be extended for matters that are more complex or more serious.
- 4.15 The College will not tolerate victimization or retaliation against a complainant or a respondent, or a support person of either a complainant or a respondent.
- 4.16 The College will provide student and staff members access to education and awareness campaigns with the aim of preventing and responding appropriately to sexual misconduct.
- 4.17 College community members who engage in sexual misconduct may face disciplinary action which could impact on the continuation of their place at the College.
- 4.18 Disciplinary action includes but is not limited to: suspension; expulsion; exclusion from College grounds and events; removal of rights and privileges including removal of leadership positions or scholarships; official warnings; exclusion from areas of the College; counselling or training; termination of employment.
- 4.19 All members of the College community are expected to familiarize themselves with the sexual misconduct policy and procedures.

## 5. Definitions

Terminology	Definition
College	Jane Franklin Hall, 6 Elboden Street, South Hobart Tasmania
College community	Residents, non-resident members, staff, tutors and volunteers including but not limited to Council, Fellows, Chaplains and Council sub-Committee members.
Complainant	A person who makes a disclosure or a formal complaint of sexual misconduct. The College understands that people who experience sexual misconduct may refer to themselves as a complainant, victim or survivor. For the purposes of this policy, the term “complainant” is used. However, the College respects and supports the right for

	individuals to use the term with which they feel most comfortable.
Consent	<p>Consent means agreeing to something. For someone to do this they must be old enough to understand what it is they are giving consent to. To say 'Yes' they must be free to also say 'No' – therefore, someone cannot be pressured into giving their consent. Someone cannot freely consent if they are drunk, drugged, unconscious or asleep. It is also not consent if they are forced, tricked, or threatened into having sex. If you have sex with someone who is unable to freely consent, this is sexual assault, which is a serious crime.</p> <p>Anyone can withdraw their consent at any time – it doesn't matter if you've already started to have sex. If one person isn't into the sexual activity, then you have to stop<sup>1</sup>.</p>
Disclosure	A reported issue that is not intended to be a formal complaint. In such a case, the College offers information, support and advice to the complainant but no outcome from the College is expected.
Formal complaint	A written complaint made by a complainant to the College of an act of sexual misconduct experienced by the complainant. In such a case, the complainant wishes for the College to act in relation to the complaint and is seeking an outcome from the College.
Mandatory reporters	People who are legally obliged to report child abuse or neglect are sometimes called 'mandatory reporters' or 'prescribed persons'. They include medical practitioners, nurses, dentists, police officers, psychologists, probation officers, child welfare officers, school principals, ministers of religion, teachers, kindergarten teachers, people who manage childcare services and people employed by or volunteering in government agencies or organisations funded by the Crown that provide health, welfare, education, or care for children <sup>2</sup>
Respondent	A person who has allegedly perpetrated sexual assault or sexual harassment.

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<sup>1</sup> Tasmanian legal aid for Tasmanians. 2021. *Fact sheet – Consent to sex*. Retrieved from <https://www.legalaid.tas.gov.au/factsheets/consent-to-sex/>

<sup>2</sup> Department of Communities Tasmania. 2021. Reporting Concerns. Retrieved from [https://www.communities.tas.gov.au/children/child\\_protection\\_services/what\\_can\\_i\\_expect\\_when](https://www.communities.tas.gov.au/children/child_protection_services/what_can_i_expect_when)

Senior Member of the College	Staff members, including Senior Residents and Tutors, Members of Council, Fellows, Chaplains and members of Council Sub-committees.
Sexual assault	Centres Against Sexual Assault Forum defines sexual assault as any behaviour of a sexual nature that makes someone feel uncomfortable, frightened, intimidated, or threatened. It is sexual behaviour that someone has not agreed to, where another person uses physical or emotional force against them. It can include anything from sexual harassment through to life threatening rape. <sup>3</sup>
Sexual harassment	<p>If it feels like sexual harassment, chances are it is.</p> <p>Sexual harassment is unwelcome conduct of a sexual nature that occurs in circumstances where a reasonable person would anticipate the possibility of the person being offended, humiliated or intimidated. Conduct of a sexual nature includes making a statement of a sexual nature to, or in front of, a person, and it can be spoken or in writing. It can be a one-off incident, or it can happen more than once.<sup>4</sup></p> <p>Sexual harassment can include but is not limited to:</p> <ul style="list-style-type: none"> <li>• uninvited physical contact such as touching, brushing up against, kissing, massaging or hair stroking</li> <li>• asking a person (either verbally or in writing) if they would like to have sex or to 'get closer'</li> <li>• making comments with sexual connotations, such as telling someone they 'look sexy', saying 'you're not getting enough', talking about one's own sexual urges or needs, or telling smutty jokes</li> <li>• asking about or commenting on a person's sex life</li> <li>• gesturing, staring or leering at breasts or groin area</li> <li>• stalking or paying unwelcome attention to a person</li> </ul>

<sup>3</sup> Victorian Centres Against Sexual Assault (CASA) Forum. 2014. *Factsheet – CASA Forum Victorian Centres Against Sexual Assault What is Sexual Assault*. Retrieved from <https://casa.org.au/assets/Documents/What-is-sexual-assault2.pdf>

<sup>4</sup> Fair Work Commission, Retrieved from <https://www.fwc.gov.au/issues-we-help/sexual-harassment/what-sexual-harassment-work> 15 November 2022

	<ul style="list-style-type: none"> <li>communicating sexually explicit material (including emoji's) in person or through phone calls, online interaction, email, social media or text messages.</li> </ul> <p>The key issue is how the behaviour makes the person feel and whether it is unwelcome<sup>5</sup></p>
Sex based harassment	<p>Unlike sexual harassment, sex-based harassment is not directed towards a particular person. Instead, it creates a hostile workplace environment based on sex or gender. Sex-based harassment is unwelcome conduct of a seriously demeaning nature by reason of the person's sex, that results in a person or group feeling offended, humiliated, or intimidated. Sex-based harassment can include:</p> <ul style="list-style-type: none"> <li>commenting about or verbally abusing a person or group because of their gender ignoring, isolating or segregating a person or group because of their gender displaying obscene or pornographic materials;</li> <li>engaging in general sexual banter, sexual innuendo or making offensive jokes based on sex;</li> <li>referring to a transgender person by their previous name or gender;</li> <li>referring to a gender fluid or non-binary person by their previous pronoun or gender.</li> </ul>
Sexual misconduct	<p>Inappropriate, behaviour, conduct or activity of a sexual nature including sexual assault, sexual harassment (SASH) and sex-based harassment It may be used to describe activity of a sexual nature that is not of itself harassment or sexual assault. For example, consensual activity between a staff member and a student may be regarded as sexual misconduct. Other examples, include but are not limited to:</p> <ul style="list-style-type: none"> <li>sexting</li> <li>creating and distributing sexually explicit photos or films without consent</li> <li>stalking</li> <li>drink spiking</li> <li>acts of indecency or sexual exploitation.</li> </ul> <p>Sexual misconduct can occur between strangers or between people who know each other well, including</p>

<sup>5</sup> Equal Opportunity Tasmania 2021. *Sexual Harassment*. Retrieved from [https://equalopportunity.tas.gov.au/html\\_version/sexual\\_harassment](https://equalopportunity.tas.gov.au/html_version/sexual_harassment)

	<p>those involved in a consensual intimate relationship. It can also be a single incident or repeated/continuous behavior.</p> <p>Behaviour that is consensual and based on mutual attraction, friendship and respect is not sexual misconduct.</p>
Support person	Any person to whom a disclosure is made and all residents and/or staff members involved in the support process.
University	The University of Tasmania

## 6. References

- Jane Franklin Hall Code of Conduct
- Jane Franklin Hall, Statement on the College Culture
- University of Tasmania Behaviour Policy
- University of Tasmania Behaviour Procedure
- *Children, Young Persons and Their Families Act 1997 (Tas)*
- *Criminal Code 1924 (Tas)*
- *Sex Discrimination Act 1984 (Commonwealth)*
- Sexual Assault Support Services (SASS), brochure, *What are my Options?*
- Victorian Centre Against Sexual Assault (CASA) Forum. Factsheet – CASA Forum Victorian Centre Against Sexual Assault, *What is Sexual Assault?*
- Equal Opportunity Tasmania, website, Sexual Harassment
- Tasmanian legal Aid Commission, website, Fact sheet – Consent to sex.
- Department of Communities Tasmania, website, Reporting Concerns.
- Fair Work Commission, website, Sexual Harassment Definition