



ST ANN'S COLLEGE

Respectful Relationships Policy

Preventing and responding to discrimination, harassment, sexual harassment, assault, indecent assault and sexual assault:

- **College Members are expected to maintain respectful relationships always and in all circumstances. Discrimination, harassment (in person or online), sexual harassment (in person or online), assault, indecent assault and sexual assault are not acceptable and will not be tolerated.**
- **College Members should understand that harassment, sexual harassment, assault, indecent assault and sexual assault are criminal offences.**
- **College Members are expected to actively seek informed consent in their interactions with others and respect when it is not given or withdrawn.**

Background to the Policy

St Ann's College seeks to support students through their transition to adulthood with a breadth of intellectual, spiritual, cultural and social experiences. Rather than creating policy grounded in punitive measures, this policy aims to empower College members by focussing on wellbeing and encouraging its members to think critically, make informed choices and to hold themselves and others accountable for their actions. It seeks to assist all College members to engage in respectful relationships always, to actively seek informed consent and ethically negotiate all relationships and interactions.

At the same time, St Ann's College is firmly committed to the safety of all students, staff and visitors, and expects all people who interact with the College to abide by the College values and the law. St Ann's College does not

tolerate any form of harassment, vilification or victimisation of or by its students and staff and takes a zero-tolerance policy to these behaviours where they are reported. St Ann's College upholds the following legislation which provides a legal framework for our Respectful Relationships Policy (the "Policy"): *Equal Opportunity Act 1984 (SA)*; *Work Health and Safety Act 2012 (SA)*; *Sex Discrimination Act 1984 (Cth)*; *Criminal Law Consolidation Act 1935 (SA)*.

College students are young adults who are legally accountable for their actions. As a result of this, the College's policy and procedures relating to respectful relationships emphasises personal responsibility and conformity with the law, as well as structural supports for encouraging respectful relationships in daily College life.

St Ann's College recognises that discrimination, harassment, sexual harassment, assault, indecent assault and sexual assault are abuses of power that contravene the St Ann's College Code of Conduct and our values (Appendix 1). Students, staff and visitors must not engage in such conduct. Sexual assault and indecent assault are crimes; the College encourages students and staff to report any instances of sexual or indecent assault to both the College and the Police. The College takes all reports of inappropriate conduct seriously and has processes for responding to these reports with impartiality and sensitivity, in line with best practice in supporting people in these circumstances.

Scope and purpose

This policy applies to all students, residential staff and non-residential staff, whether on or off-site. Alumni, contractors and visitors to College are also considered to be bound by College policies when on site. The law regarding sexual assault applies to everyone in South Australia, including all visitors to the College.

This policy aims to:

- Ensure that College is a safe respectful community
- Guide College students in creating a community where all students value informed consent and respect choices
- Clearly set out the behavioural expectations and legal obligations of College Members
- Outline the processes that St Ann's College leadership have put in place to make St Ann's a safe place for students and staff to live and work
- Make College students aware of the support available to them

- Encourage College students to seek help for any situation where they feel uncomfortable
- Inform College students of the procedures that the College will follow in responding to a report
- Ensure that any adverse experiences are approached ethically, and are dealt with sensitively, fairly and confidentially and within Australian Law

St Ann's College – Building a safe environment

St Ann's College takes very seriously its responsibility to protect students and staff from sexual assault, harassment, vilification, bullying and victimization. In discharging this responsibility, St Ann's has an ongoing commitment to:

- Ensure, as far as possible, that there is no unlawful discrimination, sexual harassment, discriminatory harassment, vilification, bullying, or victimisation of students or staff;
- Communicate regularly with the student community that sexual assault and sexual harassment are both illegal and unacceptable;
- Train staff and student leaders to respond appropriately to reports and complaints of assault, harassment or other unacceptable behaviour;
- Ensure that St Ann's policies, procedures, and documentation accord with Equal Opportunity, and Health, Safety and Wellbeing best practices, and are updated as necessary;
- Establish and maintain clear processes to manage and investigate disclosure and reports concerning matters covered by this policy;
- Provide advice and support to students and staff in relation to complaints on matters covered by this policy;
- Align this policy as closely as possible to those of the University of Adelaide, UniSA and Flinders University, while making sure that the particular needs and structures of the College as an educational and residential community are taken into account.

St Ann's College has an ongoing commitment to ensure that no one is victimised or otherwise subjected to detrimental action or disadvantage as a consequence of making a disclosure or a complaint of sexual assault or sexual harassment, providing information about a disclosure or complaint, supporting a student who had made a disclosure or complaint, or engaging in safe active bystander intervention. Such victimisation or detrimental action constitutes misconduct.

Definitions

Reporting Party

A reporting party is any College member/s who makes a report to College concerning the behaviour of another person/s. Any individuals or groups who have witnessed or had something happen to them that they think has breached the College's Respectful Relationships Policy can make a report. This can be about the behaviour of a St Ann's College member or an outsider. This can be for an incident/s either on or outside College grounds. The College seeks to support and empower the reporting party, who is not obligated to pursue any particular course of action unless there is significant risk to the reporting party or others. St Ann's College will support any reporting party wishing to go to the Police to report criminal incident/s.

Responding Party

A Responding Party is any College member who has had a report made concerning them. Since the College is unable to satisfactorily investigate reports made against external persons, reports made concerning external persons will result in a ban from College grounds. St Ann's College will support any reporting party wishing to go to the Police to report criminal incident/s. Police will be called should the external person/s seek to re-enter College grounds.

Support Person

A person to whom the Reporting Party has spoken about the alleged breach of the Policy.

Informed Consent

St Ann's College members have the right to make choices free from pressure and with a clear understanding of the facts and potential outcomes of that choice. This is "informed consent" and should be actively sought when interacting with others in any area of life.

College Members should understand that informed consent can only be given by those who are:

- 17+ years old

- Fully conscious and not intoxicated
- Free to act without the influence of others, especially older community members
- Aware of all the relevant facts
This includes:

1. Being given sufficient information to understand what they are agreeing to
2. Being given a free choice to opt in or out, without adverse consequences
3. Being permitted to change their mind at any time

Consent to sexual activity

Consent to sexual activity in South Australia is defined in s 46 of the Criminal Law Consolidation Act 1935 (SA) as free and voluntary agreement. Under the legislation, a person does not freely and voluntarily agree to sexual activity if:

The person agrees because there has been force applied (this includes an express or implied threat of force to the victim or to another person) or because of a threat to denigrate, humiliate, disgrace or harass the person or another person, or out of fear; or

- the person is unlawfully detained at the time of the activity; or
- the person is asleep or unconscious when the activity occurs; or
- the person is intoxicated to the point of being incapable of freely and voluntarily agreeing when the activity occurs; or
- the activity occurs whilst the person is affected by a physical, mental or intellectual condition or impairment; or
- the victim is unable to understand the nature of the activity; or
- the victim agrees to engage in the activity with a person under a mistaken belief as to the identity of that person; or
- the person is mistaken about the nature of the activity (for example, a person is taken not to freely and voluntarily agree to sexual activity if they agree to engage in the activity in the mistaken belief that the activity is necessary for the purposes of medical diagnosis, investigation or treatment, or for the purpose of hygiene).

Being under the influence of alcohol or drugs is not an invitation to sexual advances or activity. Equally, being under the influence of alcohol or drugs is not an excuse for improper or unlawful behaviour. **Each and every time you do anything sexual, ranging from touching or kissing to having sex, you must always have the other person's consent.** This means taking responsibility for ensuring the other person is consenting to the sexual activity, with you, throughout the course of the interaction. Never assume that a person is consenting because they have previously said yes, or because of their

reputation, or because of the way they act or dress, or for any other reason. Consent can be withdrawn – if consent is withdrawn, then **stop**. **Going ahead with sexual activity knowing that the other person does not consent is criminal**. It is also criminal to proceed with sexual activity if you:

- are aware of the possibility that the person might not be consenting; or
- do not give any thought to whether or not the person is consenting (so-called *reckless indifference*).

Even where a Responding Party was intoxicated at the time the offending occurred, he or she can be guilty of sexual assault provided intent to commit the offence can be shown.

Reckless indifference to consent

A person is guilty of sexual assault if he or she knows that the other person does not consent (or has withdrawn their consent) or is recklessly indifferent as to whether the other person has consented. Reckless indifference in the context of sexual offences means a failure on the part of the Responding Party to consider the other person's wishes, having utter disregard as to whether or not they have consented (or withdrawn consent).

Under the legislation, a person will be found to be recklessly indifferent to the fact of consent (or withdrawal of consent) if he or she:

- is aware of the possibility that the other person might not be consenting (or has withdrawn consent) but decides to proceed regardless of that possibility; or
- is aware of the possibility that the other person might not be consenting (or has withdrawn consent) but fails to take reasonable steps to ascertain whether the other person does in fact consent before proceeding;
- does not give any thought to whether or not the other person is consenting to the act (or has withdrawn consent).

Sexual Assault

Sexual Assault is a serious crime. It is a violation of trust, an exploitation of vulnerability, and an abuse of power. Any sexual activity to which a person has not consented is sexual assault. It is sexual assault if a person has sexual intercourse with another person without the consent of that person, either knowing that there is no consent or being recklessly indifferent about that consent. It is sexual assault if a person continues to have sexual intercourse with another person where consent has been withdrawn. It is sexual assault if consent is not obtained, even where the person does not physically resist. It is sexual assault where a person compels another to engage in, or to continue to engage in sexual intercourse with a person other than the offender; or an act of

self-penetration. Sexual assault under the law means: unwanted oral, anal or vaginal penetration, by any part of the body of another person, or any object, and includes oral sex.

Sexual assault may be a single incident or may occur over time. Sexual assault is not defined by gender; it can happen to anyone, of any gender.

Sexual assault is **never** the fault of the victim. It is important to remember that the perpetrator is always responsible for the sexual assault

Indecent Assault

Indecent assault is touching (or the threat to touch) a person's body in a sexual manner without consent by another person. For example, indecent assault may include unwanted touching of a person's breasts, bottom or genitals.

Sexual Harassment

Sexual Harassment is any unwanted behaviour of a sexual nature that offends, humiliates or intimidates an individual or group of people, and may occur as the result of a single incident or repeated incidents.

The law in South Australia says that a person sexually harasses another, if:

- *The person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or*
- *Engages in other unwelcome conduct of a sexual nature in relation to the person harassed,*

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated, or intimidated.

Sexual harassment is not defined by gender; it can happen to, or be perpetrated by, anyone of any gender.

Sexual harassment may include:

- Displaying sexual material where it can be seen by others (online or in real life)
- Sending or requesting sexually explicit photographs by mobile or online (so-called "nudes" or "dick pics") where this is unwanted by one party

- Unwanted sexual advances
- Unwanted requests for sexual behaviours
- So-called 'traditional' chants or sporting songs that are sexually oriented in nature
- Hazing activities that focus on sexualised jokes, actions or activities
- Making unwanted jokes of a sexual nature
- Other unwanted behaviour of a sexual nature

Sexual harassment is against the law and may result in financial and other penalties. It is unlawful for a person to cause, instruct, induce or assist another person to act in a way that constitutes sexual harassment. This person can be penalised in the same way as the harasser. Once a complaint of sexual harassment has been made, it is unlawful to treat a person unfavourably because they have made a complaint.

Assault

Assault is any action or threat of action which intentionally inflicts injury, force or violence on an individual or group of people. Assault may include

- Spitting
- Hitting
- Kicking
- Punching
- Slapping
- Administering an intoxicating substance without a person's knowledge

Harassment

Harassment is any unwanted behaviour that offends, humiliates or intimidates an individual or group of people, and may occur as the result of a single incident or repeated incidents. This includes stalking and intimate partner violence, as well as displaying material online or in real life that targets a person or group of people. Harassment because of a person's actual or perceived status may be based on:

- Gender, including transgender status
- Race including colour, nationality, descent, ethnicity or ethno-religious background
- Sexuality
- Disability
- Age
- Marital or domestic situation
- Pregnancy or breastfeeding

- Carer's responsibilities

Discrimination

Discrimination occurs when an individual or group of people are treated less favourably than another individual or group of people, because of an actual or perceived characteristic of that individual or group of people.

Confidentiality

All enquiries or reports on matters pertaining to breaches of this policy will be treated with sensitivity and respect, and will remain confidential except when it is assessed that it is likely that there is a significant risk to any College member. In rare instances the College will encourage the disclosing student to report the matter to the Police. If there are circumstances where the College is obliged to report a disclosed or reported incident to the Police, for example in instances requiring mandatory reporting, the student making the disclosure will be informed before the College reports to the Police. The bounds of confidentiality will be discussed and an individual plan created that addresses a balance between the wellbeing and safety of the individuals involved and the College at large. Students should feel free to raise concerns in the abstract, or on a hypothetical basis, where they are determined that strict confidentiality be maintained, although this may limit the extent to which the College can follow up on the reports made. However, support will always be provided to those who seek it.

Once a report is made

Reports of breaches of the Respectful Relationships policy will be handled in a sensitive, discreet and fair manner, as outlined below. Where a breach of the policy involves a reported instance of indecent assault or sexual assault, the matter will be handled under the conditions outlined in the Sexual Misconduct policy, which over-rides the conditions of the Respectful Relationships policy.

Initial report

A report of behaviour that breaches the Respectful Relationships policy can be made to the Principal, Senior Tutor, Equity Officer and/or a Residential Tutor. St Ann's College encourages students and staff to report any breaches of the Respectful Relationships policy. We are here to provide support, referrals, and information to assist you.

Where to go for support and information

Executive residential staff

The role of the College Respectful Relationship Officers is to provide support and information to any one in College who is concerned about any possible discrimination, harassment, sexual harassment, assault, indecent assault or sexual assault. Appointed staff members include:

- The Principal
- The Senior Tutor
- Equity Officers
- Residential Tutors

These Officers can provide confidential information and support regarding the Respectful Relationship policy and procedures. They may be instructed by the Principal to investigate any formal complaints.

Student supports

Equity Officers and Residential Tutors have undertaken training to better support people who are concerned about any breach of the Respectful Relationships Policy.

You are of course welcome to seek advice from anyone in College you feel can assist. College seeks to ensure that all College members are aware of this policy and can direct you to further support and information if needed.

Support available to students includes information about appropriate emergency health, counselling, security and accommodation providers, information about and assistance with navigating the College's formal report and misconduct investigation processes, referral to internal and external support services, regular and timely communication about the process and its resolution, interim measures, etc.

Support provided by the College to past students

If a past resident wishes to make a disclosure or report the College will follow the processes outlined in this policy to the extent that they are relevant and effective. As outlined above, the College seeks to support and empower the reporting party, who is not obligated to pursue any particular course of action unless there is significant risk to the reporting party or others. St Ann's

College will support any reporting party wishing to go to the Police to report criminal incident/s.

Record-keeping

Appropriate records of all disclosures and reports (and other communications) of sexual assault and sexual harassment will be collected and kept securely. Students will be allowed reasonable access to records about themselves. Only members of the Discipline Committee will have access to records to carry out responsibilities under the policy subject to confidentiality requirements.

With thanks to St Andrew's College Respectful Relationships Policy

With thanks to Lincoln College for their Respectful Relationships, Sexual Misconduct and Sexual Harassment policies.