
GCA Sexual Misconduct Prevention and Response Policy¹

Context

This document expresses the behaviour expected of the Group Colleges Australia (GCA) community regarding any matter of Sexual Assault.

Scope

This document applies to all staff across GCA.

Rationale

The purpose of this policy is to manage incidences of Sexual Misconduct, including Sexual Assault and Sexual Harassment at GCA and to contribute to maintaining a campus culture of inclusivity and respect upholding the rights of Employees and Students to fair treatment.

Definitions

Case Manager means an individual appointed by GCA to manage through the various stages of a complaint, investigation and recommendation until conclusion.

Complainant means an individual raising an issue, providing a notification or making a complaint about a matter that they wish GCA to consider and for which specific outcome/s or resolution/s are explicitly or implicitly expected.

Duty of Care requires all Employees and Students to take reasonable care in view of reasonably foreseeable circumstances that may arise. Safety of Employees, Students and visitors on campus is the first priority in any situation.

Employee means an individual employed by GCA under an Enterprise Agreement or a common law employment contract.

GCA Community means all people who use GCA's campuses or facilities for work, study or other authorised activity, and GCA's campuses and facilities.

GCA means GCA of Australia.

Respondent means a Students or Employee against whom claims relating to Sexual Assault and Sexual Harassment are made.

SASH Committee means a dedicated Task Force established as a stand-alone entity to regularly meet and review all matters relating to Sexual Assault, and Sexual Harassment.

Student means an individual enrolled in a degree, diploma or certificate course of GCA, or an individual enrolled on a non-award basis, or through GCA Extension as a continuing education student, in units offered within degree, diploma or certificate courses of GCA.

¹ Appendix A lists the external documents consulted in the drafting of this document.

Supervisor/Manager means an individual who is responsible for supervision of the Employee or Student.

Vexatious Complaint means one that is made or pursued without reasonable grounds or made to harass or annoy, to cause delay or detriment, or for any other wrongful purpose.

Guiding Principles

1.1 Sexual Misconduct

GCA understands Sexual Misconduct includes instances of:

- Sexual assault
- Sexual harassment

1.2 Sexual Harassment

1.2.1 Sexual Harassment is defined in legislation as conduct with a sexual component which is unwelcome, unsolicited and unreciprocated. Conduct with a sexual component includes physical, visual, verbal and non-verbal behaviour.

Note that as per the changes to the *Fair Work act 2009 (Cth)* on 2 September 2021, sexual harassment in connection with a person's employment can be a valid reason for dismissal. A person who is sexually harassed at work will be able to apply for a Fair Work commission 'Stop Sexual Harassment Order'.

1.2.2 GCA understands that Sexual Harassment includes, but is not limited to:

- leering or staring;
- obscene sexual communications in any media including social networking;
- persistent following or stalking;
- persistent unwelcome invitations, telephone calls or emails; sending of sexually explicit emails or text messages;
- sexually suggestive words, gestures or sounds;
- unwanted ongoing declarations of affection or approaches for affection, including gifts, display of sexually suggestive material use of GCA computer systems for the retention and distribution of sexually explicit material;
- unwelcome behaviour or contact of a sexual nature which offends, intimidates, embarrasses or humiliates an individual;
- unwelcome physical touching or familiarity, including deliberately brushing against someone, patting, kissing and embracing.

1.2.3 GCA understands that Sexual Harassment may be perpetrated or experienced by people of any sexual orientation or gender identity.

1.2.4 GCA understands that Sexual Harassment may be a single incident or a persistent pattern of unwelcome behaviour.

1.2.5 GCA understands that Sexual Harassment does not include:

- mutual attraction;
- consensual romantic involvement or friendship.

1.3 Sexual Assault

GCA understands Sexual Assault to be unwanted sexual acts or behaviours which an individual did not consent to, or was not able to consent to, through the use of physical force, intimidation or coercion, including but not limited to:

Aggravated sexual assault (sexual assault with a weapon); attempted rape;

Indecent assault;

Penetration by objects and forced sexual activity that did not end in penetration; rape (sexual penetration without consent).

- 1.3.1 GCA understands that Sexual Assault involving a physically violent and/or coercive component, or threats of physical violence, such as physical molestation or assault, may constitute a criminal offence. Any individual who is subjected to such incidents should seek advice and support concerning reporting the matter to the police and/or the NSW Rape Crisis Centre.
- 1.3.2 GCA understands that Sexual Assault may be perpetrated or experienced by people of any sexual orientation or gender identity.
- 1.3.3 GCA understands that Sexual Assault may be a single incident or a persistent pattern of unwelcome behaviour.

1.4 Sexual Abuse

- 1.4.1 GCA understands Sexual Abuse to be Sexual Harassment and/or Sexual Assault and/or any other sexual activity involving a child (under the age of 16), it being beyond their understanding and contrary to accepted community standards. These matters shall be reported to the police and be a mandatory reporting matter.

2. Scope

2.1 Legislative Controls

- 2.1.1 A SASH Task Force, shall be formed and meet on a quarterly basis to oversee the interests and responsibilities of GCA in regards to all matters relating to the management of all Sexual Assault and Sexual Harassment matters. Membership shall be led by the Director, Human Resources with the Committee also comprising the Dean and Deputy Vice Chancellor. Other membership and terms of the Committee may change from time to time, and can be found in the Terms of Reference of the SASH Task Force. The SASH Task Force shall report to the Executive Management Committee who shall table and review each SASH Task Force report and Minutes.

2.1.2 Under the Commonwealth *Equal Opportunity Act (1999)*, the *Commonwealth Sex Discrimination Act (1984)*; *the Anti-Discrimination Act 1977 (NSW)*, the *Equal Opportunity Act 2010 (VIC)*, and the *Fair Work Act 2009*, that Sexual Misconduct in employment, education, accommodation and in the provision of goods services and facilities is unlawful.

2.1.3 Under the *Workplace Health & Safety Act 2011 (NSW)*, including the *Workplace Health & Safety Act Regulations 2017* and the *Occupational health and Safety Act 2004 (Vic)* an employer is required to take remedial and preventative action, including disclosure of necessary information, in response to allegations of Sexual Misconduct, including but not limited to where:

There is a threat of physical harm or danger to an individual; GCA's Duty of Care to Employees or Students may be compromised if no action is taken; there is an activity considered serious misconduct under the *Crime Commission Act 1991 (NSW)* and the *Crimes Amendment (Sexual Offences) Act 2016 (Vic)* that GCA is obliged to report.

2.1.4 A Complainant understands that GCA has both legal obligations and a Duty of Care to all its Employees and Students, which may take precedence over the desire for confidentiality. Duty of Care considerations will include an assessment of the safety of people involved in the matter, and may require Employee relocation or adjustment of duties and reporting lines, or GCA timetable, while the matter is addressed.

2.1.5 Wherever possible, a Complainant will be informed if their information needs to be disclosed to other parties. Other parties include but are not limited to Police, counselling staff, and the alleged offender.

2.2 Institutional Scope

2.2.1 The scope of this policy extends to all GCA Community premises and includes but is not limited to GCA:

Campuses;

Sporting and recreational clubs and facilities to the extent that they fall within GCA Community; managed digital environments;

Activities and situations related to GCA business that are not conducted on GCA premises, including but not limited to:

- field trips
- conferences
- students camps
- inter-GCA events
- parties and other social functions.

2.3 Sexual Misconduct on a Premises Outside of GCA Community

- 2.3.1 GCA understands that a member of GCA Community may, while performing duties as an Employee, as a Student or as any other individual while undertaking official duties for GCA, experience Sexual Misconduct on premises outside of GCA Community. GCA will liaise with the responsible authority to ensure proper procedures will be followed and will continue to provide support services. Where that member is a Student, GCA will work to minimize the impact on the Student's learning.

GCA understands that Sexual Misconduct conducted on a digital environment not managed by GCA will also be subject to this policy.

2.4 Individual Scope

- 2.4.1 The scope of this policy extends to all members of GCA Community, including but not limited to:
- GCA's professional staff;
 - GCA's academic staff;
 - GCA's students;
 - persons not employed by GCA that undertake official duties for GCA.

2.5 Sexual Misconduct by an Individual Outside of GCA Community

- 2.5.1 GCA understands that a member of GCA Community may, while performing duties as an Employee, as a Student or any other individual while undertaking official duties for GCA, experience Sexual Misconduct by an individual outside of GCA Community. In such circumstances, GCA will liaise with the responsible authority to ensure proper procedures will be followed and will continue to provide support services.
- 2.5.2 The scope of this policy extends to all individuals of GCA Community performing duties as an Employee, as a Student or any other individual while undertaking official duties for GCA while performing those duties on premises outside of GCA Community.

3. Intent to Commit Sexual Misconduct

- 3.1 GCA, in accordance with the *Equal Opportunity Act 1999 (Cth)*, considers behaviour to be Sexual Misconduct if an individual harassed is, or has reasonable grounds for believing that rejection, refusal or objection to a request, advance or other conduct will disadvantage them in any way related to their working, studying or living environment. Disadvantage here also includes psychological and emotional distress affecting that individual's ability to pursue their usual work, study or individual activities
- 3.2 GCA will not consider the intention of a Respondent in determining if Sexual Misconduct has occurred.

- 3.3 GCA will consider the perception of a recipient (the Complainant) of conduct by a Respondent in determining whether Sexual Misconduct has occurred.
- 3.4 GCA does not consider it necessary for the Complainant to have told a Respondent that their behaviour was unwelcome for the behaviour to constitute Sexual Misconduct.

4. Employee and Student Rights and Responsibilities

- 4.1 GCA understands that all Employees and Students have a right to participate in an environment free from Sexual Misconduct. GCA expects all Employees and Students to prevent Sexual Misconduct and contribute to maintaining a campus culture of inclusivity and respect, and to uphold the rights of Employees and Students to fair treatment.
- 4.2 GCA expects all Employees and Students to comply with the *Equal Opportunity for Women in the Workplace Act 1999 (Cth)*; *Commonwealth Sex Discrimination Act 1984*, and *Fair Work Act 2009*, and all other relevant legislation.
- 4.3 Right to Legal Representation

A complainant, whether Staff or Student; and a person whom has had a complaint made against him/her, whether Staff or Student; have the right to legal representation. GCA recommends that both parties seek legal advice. GCA will seek its own legal advice when a complaint is made.
- 4.4 Vexatious Complaints

If the complaint is found to be vexatious, GCA may take action against the complainant employee under GCA's misconduct procedures contained within the Higher Education Industry – General Staff Award 2010 (including all amendments up to 20 June 2019), or other relevant Award, as appropriate.
- 4.5 Conflict of Interest
 - 4.5.1 No individual should be placed in a situation where there is real or perceived conflict of interest. If a complainant or respondent believes that a real or perceived conflict of interest exists when a matter involving them is to be investigated, they can ask for an alternative case manager to be appointed.
 - 4.5.2 A conflict of interest includes any circumstance, whether actual or perceived, arising from conflict between the performance of public duty and private or individual interests. All parties involved in the preliminary inquiry into and possible resolution of complaints of Sexual Misconduct will ensure:
 - they have no conflict of interest or bias in relation to any party to the complaint; there is no perception by the parties that a conflict of interest exists;

- they adhere to GCA's Code of Ethics and Code of Conduct;
- Individuals who have concerns about perceptions of possible conflict of interest or partiality should exclude themselves from the process, refer their complaint to their Manager, or seek advice from within Human Resources.

5. Supervisors and Managers

5.1 (a) GCA expects that Supervisors/Managers take appropriate action using the procedures associated with this policy when they become aware of instances of possible Sexual Misconduct, even without a complaint being lodged.

(b) The HR Director is responsible for the implementation of this document and for reporting any incidents to the Board of Directors and the Tertiary Education Quality Agency (TEQSA).

5.2 GCA expects Supervisors/Managers to manage Sexual Misconduct appropriately and contribute to maintaining a campus culture of inclusivity and respect, and to uphold the rights of Employees and Students to fair treatment by:

- Making sure Employees and Students are familiar with this policy modelling exemplary behaviour in this regard themselves.
- Ensuring that Employees and Students are aware of GCA's Code of Ethics and Code of Conduct.
- Making known names and locations of Employees, who are able to provide preliminary advice and assistance.
- Taking early action when they become aware of instances of possible Sexual Misconduct, even without a complaint being lodged.
- Following up promptly when a Sexual Misconduct matter is raised.

6. Breach of Policy

Failure to comply with this policy by a member of GCA Community may be considered a breach of the Code of Ethics and Code of Conduct and may result in disciplinary action. If it is suspected that a member of GCA Community has failed to comply with this policy, GCA will seek legal advice in relation to possible actions it may take against that member.

Procedures

7. Seeking Support

- Someone who has experienced Sexual Assault or Sexual Harassment can seek support from a range of people internal and external to GCA.
- Matters of Sexual Assault should be referred directly to the police. GCA can provide support to the Complainant through the process of contacting the police in

circumstances where the Complainant has not already reported the matter to the police. If the Complainant is a Student and has any concerns about the status of their student visa because of the dealings with police, GCA will provide support to ensure the Student is aware of their rights regarding their visa.

7.1 On Campus:

7.1.1 Employees and Students

hrm@gca.edu.au for issues of safety on campus, or speak to Student Services on a private and confidential basis.

7.2 External:

Refer **Schedule 1** of this policy.

8. Sexual Assault Disclosures and Sexual Harassment Reports.

An Employee or Student who has been subject to Sexual Assault should make contact with the police immediately.

9. Making a Sexual Assault Disclosure

- 9.1 Where Sexual Misconduct is first raised with another Employee, that Employee will support a referral to the Disclosure Officer.
- 9.2 Disclosures are made to the Disclosure Officer. Appointments can be made by email disclosure@GCA.edu.au
- 9.3 No information about the Sexual Misconduct is required in the email; just a statement that the individual wishes to make a Disclosure, their full name, and their student/employee ID.
- 9.4 A support individual such as a friend, family member, colleague or Student Services Officer can attend a meeting and where unable to come onto campus, the Disclosure Officer will negotiate an alternative method of contact.
- 9.5 A Disclosure does not have to relate to a current or recent matter, and does not have to involve a member of GCA Community.
- 9.6 The Disclosure Officer will:

Discuss support that may be available including:

- Safety planning and implementing safety measures.
- Temporary work reassignment, location reassignment, or scheduling changes retain a summary of the Disclosure without any individual identification for GCA.
- Reporting process.
- Create a confidential file separate to the student or employee file.

Make appropriate support services available to members of GCA Community on the basis of a Disclosure, regardless of whether there is a Report; a report to the police; or a report to a support agency such as (but not limited to) the NSW Rape Crisis Centre and the Victorian Centre Against Sexual Assault.

- 9.7 In seeking accommodations regarding study or work, the Disclosure Officer needs to identify the individual for whom they are being sought, but does not need to provide any details about the Disclosure.
- 9.8 To the greatest extent possible, GCA will respect an individual's choice to not make a Report and will keep the Disclosure confidential. In exceptional circumstances, where required by law or where there is a risk of significant harm to that individual's health and safety or another individual's health or safety, and at the sole discretion of the Disclosure Officer, GCA may do one or both of the following:
 - Refer the matter to the Director, Human Resources as a Report in which case the individual who Disclosed has the right not to participate in any subsequent Investigation;
 - Notify third parties, such as the police.
- 9.9 If GCA takes any action under clause 9.8, the Disclosure Officer will notify the individual who made the Disclosure and will ensure that appropriate support services are made available to them.

10. Making a Sexual Harassment Report

- 10.1 Anyone directly subjected to Sexual Harassment, including an individual who is not a member of GCA Community, can make a Report against a member of GCA Community. Reports can be made by:
 - emailing to the Director, Human Resources (hrm@gca.edu.au)
 - submitting a Report online (through the Complaint Submission Form) making an anonymous Report (noting action may be limited)
 - making an appointment with the Director, Human Resources
- 10.2 An individual who is subjected to Sexual Misconduct and makes a Report is called the Complainant.
- 10.3 An individual can submit a Report to GCA and pursue other processes external to GCA as appropriate, including reporting to the police, Equal Opportunity Commission or the Australian Human Rights Commission.

- 10.4 If GCA commences an investigation and an external process is also being pursued, GCA may continue or suspend its investigation (after consultation with the Complainant).
- 10.5 All Reports are received by the Director, Human Resources. This includes anonymous reports.
- 10.6 A Report to GCA does not normally result in a report to the police, although in exceptional circumstances, where required by law or where there is a risk of significant harm to anyone's health or safety, GCA may have to notify third parties, such as the police. If such action is taken, GCA will notify the Complainant and will ensure that appropriate support services are made available to that individual.
- 10.7 The person against whom the complaint has been made, will be informed that a report has been made against them, and if they are a member of the GCA community, that they will be supported as well. Wherever possible, support will be provided by different people to those supporting the Complainant.
- 10.8 Any Report received will be assessed to check a number of matters including:
 - any safety or other risks associated with the Report and any investigation arising from it; where the Report was not made by the individual directly affected, that they are advised of
 - the Report and are able to talk about the Report and the anticipated process that GCA will take to consider it;
 - that there is sufficient information to proceed;
 - that where reported by the individual directly affected, the individual understands the complaint process and possible implications for them, before making a Report;
 - the appropriateness of having the complaint investigated only under the Complaint Policy, or if there are allegations that need to be investigated under GCA's applicable discipline process;
 - Human Resources will be notified of any Report in which an Employee is either the complainant or respondent. Reports involving only Employees will be managed by Human Resources, including any investigation or disciplinary process. Reports involving both an Employee and a Student will be managed by both Human Resources and a student-facing member of the SASH Task Force.
- 10.9 Anonymous and third party reports
 - 10.9.1 GCA may be unable to proceed with an Investigation involving anonymous or third party allegations due to a lack of evidence from the individual who was directly subjected to the Sexual Misconduct, or where proceeding would not allow for procedural fairness.

10.9.2 Where other sufficient evidence exists and where procedural fairness could be met, GCA may decide to proceed with an investigation. In such cases, the individual who was directly subjected to the Sexual Harassment has the right to be advised of the investigation and not participate.

10.9.3 If GCA is unable to proceed with an investigation involving anonymous or third party allegations, the Report will be retained by the Director, Human Resources. It will be kept strictly confidential, and access to it will be limited.

11. Discipline procedures

11.1 Discipline procedures do not replace police investigation. Discipline procedures are conducted against a staff member or student who has had a complaint made against them under this Policy. Discipline procedures relate to the staff member's or student's interaction with the GCA community.

11.2 At any point in considering a Disclosure or Report where it is determined that there is sufficient evidence, or where the matter is serious, the matter can be referred directly into the relevant disciplinary process:

- for students - the associated Policies for student conduct and discipline;
- for employees - the relevant Higher Education Industry – General Staff Award 2010 (including all amendments up to 20 June 2019), or other relevant award.

11.3

11.3.1 Where a Sexual Harassment Report indicates a matter that can be resolved informally or where there is insufficient evidence for referral to a discipline process, the Report will be considered under GCA Policy on: Student Complaint Resolution, or under the grievance procedures in the relevant Higher Education Industry – General Staff Award 2010 (including all amendments up to 20 June 2019), or other relevant award.

11.3.2 These complaint/grievance processes allow for informal resolution of matters and an investigation of a complaint matter where needed.

11.3.3 These steps should establish whether resolution of the matter can be achieved in a just, prompt and confidential manner at the local level.

11.3.4 Care should be taken not to pre-judge either party or to dismiss a matter as trivial. A range of strategies can be used in resolving the complaint whilst ensuring that principles of procedural fairness are observed.

11.3.5 The Director, Human Resources will appoint a Case Manager for each complaint made.

11.3.6 For the purposes of these procedures, an Employee responding to a complaint or allegation(s) of Sexual Misconduct is referred to as employee respondent and a Student responding to a complaint or allegation(s) of Sexual Misconduct is referred to as student respondent.

11.3.7 During either the informal or formal steps, a complaint investigation can meet the requirements of the initial inquiry stage of a discipline process. If disciplinary action is required, the matter should be referred to Director, Human Resources.

11.3.8 Where no matters are substantiated or identified as requiring consideration under the relevant discipline procedures, a complaint will be found not justified and closed. This decision can be appealed (procedures clause 12).

11.4 Initial (preliminary) inquiry

11.4.1 Where the GCA determines that a matter(s) arising from a Report may require disciplinary action, it should be referred to the Director, Human Resources whom will also take into account:

- for students - the associated Policies for student conduct and discipline;
- for professional employees - **Higher Education Industry – General Staff - Award 2010**;
- for academic staff - Higher Education Industry—Academic Staff—Award 2010;

11.4.2 This decision can be made on receipt of a report or during the complaint resolution process.

11.4.3 Where the immediate Manager/Supervisor of an employee respondent is not the appropriate case manager by virtue of conflict of interest, because they are not an Employee or it is otherwise unsuitable, an alternative individual will be appointed to conduct the preliminary enquiry. This alternative individual shall be determined by the Director or Human Resources.

11.5 Investigation

11.5.1 All parties to an investigation will be afforded procedural fairness and have the right to have a support individual with them.

11.5.2 The Director, Human Resources will investigate, or cause to be investigated, an allegation of Sexual Misconduct. Where the respondent is an employee, this will be referred to Employee Relations. Where the respondent is a student, the investigation will be undertaken by the Director, Human Resources. Both areas responsible for an investigation may appoint an external investigator.

11.5.3 The Dean and/or Director of Human Resources will consider and determine the suspension of an employee respondent during an investigation or termination. These decisions will be made in accordance with the relevant Higher Education Industry – General Staff Award 2010 (including all amendments up to 20 June 2019), or other relevant Award.

11.5.4 The Dean and/or Director of Human Resources will consider if a student respondent should be suspended during an investigation and any determination of exclusion or expulsion will be made in accordance with the policies for student conduct and discipline.

12. Appealing GCA decisions

12.1 A complainant who is unhappy with a GCA decision under the complaint/grievance procedures may further appeal in accordance with GCA policies, or the relevant industrial award such as Higher Education Industry – General Staff - Award 2010 (including all amendments up to 20 June 2019), or Higher Education Industry— Academic Staff—Award 2010 incorporates all amendments up to and including 20 June 2019 (PR707416). External third-party appeal mechanisms are also available.

12.2 A **respondent** who is unhappy with a GCA decision regarding an allegation of Sexual Misconduct may appeal in accordance with GCA policies, or the relevant industrial award such as Higher Education Industry – General Staff - Award 2010 (including all amendments up to 20 June 2019), or Higher Education Industry—Academic Staff—Award 2010 incorporates all amendments up to and including 20 June 2019 (PR707416). External third-party appeal mechanisms are also available.

Contact position:

- For Staff: Manager, Human Resources: hrm@gca.edu.au
- For students: Manager, Human Resources: hrm@gca.edu.au

Definitions and Acronyms	
Child abuse material	Producing or possessing child abuse material (also known as child exploitation material), or making such material available to another person, is a crime under NSW and VIC law. A child is a person under the age of 16 (although the offences can apply where the person described or depicted in the material is in fact over 16, but appears to be a child).

<p>Disclosure</p>	<p>A disclosure of sexual misconduct is where a person affected tells another person about an incident that happened to them or that they have witnessed or become aware of.</p>
<p>Consent</p>	<p>A person freely and voluntarily agrees to a sexual activity (a sexual act, sexual intercourse or sexual touching).</p> <p>Examples of the circumstances where a person is not able to freely and voluntarily provide Consent includes if that person:</p> <ul style="list-style-type: none"> • is substantially intoxicated by alcohol or any drug, • is unconscious or asleep, • is intimidated, coerced or threatened, • is detained or held against their will, • is placed in a position where there may be abuse of a position of authority or trust • does not have the capacity to provide consent (such as due to age or cognitive impairment). • (The meaning of Consent in relation to sexual offences is contained in Section 61HE of the Crimes Act 1900 (NSW) and Section 36 of the Crimes Act 1958 (Vic)
<p>Indecent assault and acts of indecency</p>	<p>Under NSW and VIC law, both indecent assault and acts of indecency are crimes. Indecent assault involves touching another person in a sexual way (for example, on a person's breasts or genitals), or threatening to do so, without the person's consent. An act of indecency involves doing something of a sexual nature towards another person without their consent (for example, masturbating in front of another person).</p>
<p>Sexual Assault</p>	<p>It's important to note that within the Australian community, various terms are used to describe behaviour which involves a sexual assault. A term which is commonly used is rape.</p> <p>Sexual assault is a crime. Under NSW law, sexual assault means engaging in certain sexual acts (such as intercourse and oral sex) with a person without their consent, when you know they don't consent, or you don't care whether they consent.</p> <p>A person consents when they freely and voluntarily agree to behaviour, understanding what they are doing and who they are doing it with. A person can't consent if they are:</p> <ul style="list-style-type: none"> • asleep or unconscious; • significantly affected by drugs or alcohol;

	<ul style="list-style-type: none"> • intimidated, coerced or threatened; • held against their will, or • tricked, or under a mistaken belief, about the identity of the other person involved. <p>A person cannot consent if they lack the capacity to understand what is taking place because of a cognitive disability, or because they are under 16. It's important to understand that a person might not consent to behaviour even though they were, or are, in a relationship with you. There is more guidance about what may amount to sexual assault available here: -</p> <p>https://au.reachout.com/articles/what-is-sexual-assault</p> <p>https://www.wlsnsw.org.au/resources/sexual-assault/what-is-sexual-assault/</p>
<p>Sexually Explicit Photos or Videos</p>	<p>Creating or distributing sexually explicit or intimate photos or videos of a person without their consent, or threatening to do so, will be treated by GCA as sexual misconduct.</p> <p>The above comments about consent also apply in this context. It's important to emphasise that just because a person is, or was, in a relationship with you, or engaged in consensual sexual activity, doesn't mean they consent to the sharing of sexually explicit or intimate images of them. In NSW and Victoria, it is a crime to share or record intimate images or videos without consent. The law covers photos and videos of private body parts or a person engaging in a private act, like undressing, showering or having sex.</p>
<p>Sexual Harassment</p>	<p>Sexual harassment occurs where there is an unwelcome sexual advance, or other unwelcome sexual behaviour, towards another person, in circumstances where it can reasonably be expected that the person will feel intimidated, humiliated or offended by the behaviour. The person's age, religious beliefs, race or ethnic origin might be relevant in considering their likely reaction to the behaviour. The unwelcome behaviour might involve a request for sexual contact, but there are other types of conduct which can amount to harassment.</p> <p>In the context of certain activities and relationships, sexual harassment is unlawful under anti-discrimination legislation. For example, sexual harassment of students by staff of GCA is unlawful, as is sexual harassment of staff by students. It is also</p>

	<p>unlawful for a staff member of the University to sexually harass another staff member. Other examples of unlawful sexual harassment are where the relevant behaviour is by a person offering accommodation or goods or services to the person harassed. Where the unwelcome sexual behaviour consists of stalking or intimidation, that behaviour may amount to a crime. This will be the case where the stalker intends to frighten the person stalked. Stalking and intimidation need not involve actually following a person; they may occur through phone calls, texting, emailing or social media contacts.</p> <p>Sexual harassment doesn't necessarily involve physical acts and may take many forms.</p> <p>Some unwelcome behaviour which might amount to sexual harassment includes:</p> <ul style="list-style-type: none">sending sexually explicit texts, emails or other social media messages;intrusive questions or statements about a person's private life;displaying posters or screen savers of a sexual nature;sexual jokes and comments;insults or taunts of a sexual nature;leering or staring;asking for sex. <p>There is more guidance about what may amount to sexual harassment available on the Australian Human Rights Commission website.</p>
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- Anti-Discrimination Act 1977 (NSW)
- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Crimes Act 1900 (NSW)
- Crimes Act 1958 (Vic)
- Education Services for Overseas Students Act 2000 (Cth)
- Fair Work Act 2009 (Cth)
- Gender Equality Act 2020 (Vic)
- Occupational Health and Safety Act 2004 (Vic)
- Privacy and Personal Protection Information Act 1988 (NSW)
- Sex Discrimination Act 1984 (Cth)
- State Records Act 1988 (NSW)
- Workplace Injury Rehabilitation and Compensation Act 2013 (Vic)

Related Documents

- GCA Critical Incident Policy
- GCA Privacy Policy
- GCA Staff Recruitment Policy and Procedure
- GCA Workplace Discrimination and Harassment Policy
- GCA Group of Companies Work, Health and Safety (WHS) Policies and Procedures
- TEQSA Report into Higher Education Response to Sexual Assault and Sexual Harassment
- UBSS Grievance Policy (Non Academic)
- UBSS Wellbeing and Safety Policy
- Universities Australia, Respect. Now. Always
- University of Melbourne: Sexual Misconduct Prevention and Response Policy
- Australian Human Rights Centre, UNSW Sydney, On Safe Ground: Strengthening Australian University responses to sexual assault and harassment. A good practice note guide for Australian Universities
- Change the Course: National Report on Sexual Assault and Sexual Harassment at Australian Universities (2017)
- Higher Education Industry – General Staff Award 2010 (including all amendments up to 20 June 2019). Higher Education Industry—Academic Staff—Award 2010
- National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (Cth)
- TEQSA Good Practice Note: Preventing and Responding to Sexual Assault and Sexual Harassment in the Australian higher education sector
- TEQSA Guidance Notes on Wellbeing and Safety, Diversity and Equity, Grievance and Complaint Handling, and Corporate Governance;
- National Code Factsheet Standard 6: Student Support Services;

Version Control and Accountable Officers

Policy Category	GCA		
Responsible Officer	HR Director		
Review Date	January 2024		
Approved By	EMT		
Previous Version/Date	V1		30 August 2020
Version	Authored By	Description of Changes	Approved By
001	AK	New template ²	EMT March 2021
002	AK	Changes in relation to the Fair Work Act 2 September 2021	EMT October 2021
003	AK	Addition of Victorian legislation, and Victorian support agencies	2 December 2021
004	AK	Refresh	EMT Feb 2022
005	AK	Refresh	EMT Feb 2023

² Note the new template was approved by the EMT 4 March 2021
Group Colleges Australia ABN 11 085 429 732

Schedule 1

Emergency contacts:

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

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

Students and former students who have experienced sexual assault can contact the following.

Note the contacts flagged in blue are Victoria, those in green NSW and in black (Australia wide).

- NSW Rape Crisis Service on 1800 424 017, 24 hours a day;
- Sexual Assault Counselling Australia 1800 211 028
- 1800RESPECT on 1800 737 732 or online via 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).
- Victoria Health Sexual Assault Crisis Line 1800 806 292

Additional Support Services

CASA House

1800 806 292

www.casahouse.com.au

Deaf Society NSW

Telephone: (02) 9893 8555

Email: deafsoc@tig.com.au

www.deafsocietynsw.org.au

DoCS Domestic Violence Line

Telephone: 1800 656 463

TTY: 1800 671 442

http://www.community.nsw.gov.au/parents_carers_and_families/domestic_and_family_violence/dv_line.html

Gay and Lesbian Counselling Service

Counselling available 5.30pm-9:30pm

General: (02) 8594 9596 Free call 1800 184 527

Lesbian Only: (02) 8594 9595 Free call 1800 144 527

http://www.glcsnsw.org.au/index.php?option=com_content&view=frontpage&Itemid=197

Family Planning NSW

FPA Health line: 1300 658 886



<http://www.fpnsw.org.au/index.html>

Family Planning Vic

Phone 1800 013 952

<https://www.fpv.org.au/>

Gatehouse centre

03 9345 6391

www.rch.org.au/gatehouse or email gatehouse.centre@rch.org.au

Intellectual Disability Rights Service

Telephone: 1800665908

Email: info@idrs.org.au

<http://www.idrs.org.au/>

Kids Helpline

Telephone: (07) 3369 1588

Email: admin@kidshelp.com.au

<http://www.kidshelp.com.au/>

Switchboard

Telephone: 1800 729 367

email: support@rainbowdoor.org.au

<https://www.switchboard.org.au/>

Appendix A

External documents consulted

Name of Document	Institution Name	Website	Date Accessed
Sexual Misconduct Prevention and Response Policy	University of Melbourne	https://policy.unimelb.edu.au/MPF1359	16/01/2023
Sexual Misconduct and Response Policy	KBS	https://www.kbs.edu.au/documents/sexual-misconduct-prevention-and-response-policy	16/01/2023
Bullying, Discrimination and Sexual Misconduct Policy	James Cook University	https://www.jcu.edu.au/policy/student-services/bullying-discrimination-harassment-and-sexual-misconduct-policy-and-procedure	16/01/2023