



Prevention and Resolution of Sexual Assault and Sexual Harassment Policy

1. Purpose

King's Own Institute (KOI) is committed to promoting a safe, inclusive, respectful environment that ensures that the work and study locations for KOI staff and students are safe and free from any form of sexual assault and sexual harassment as set out in the Commonwealth Sex Discrimination Act 1984, the Fair Work Act 2009, and the NSW Anti-Discrimination Act 1977.

Sexual assault and sexual harassment are both prohibited in Australia under both Anti-Discrimination Laws and Criminal Law and will not be tolerated under any circumstances and appropriate action, including civil or criminal action or both, will be taken against any person who breaches this policy.

The Prevention and Resolution of Sexual Assault and Sexual Harassment Policy plays an important role in supporting the Prevention and Resolution of Bullying, Discrimination and Harassment Policy and the Work, Health and Safety Policy.

This policy sets out KOI's framework to appropriately report and resolve alleged cases of sexual misconduct.

2. Scope

This Policy applies to:

- Council of Directors
- All staff, including: managers and supervisors; full-time, part-time or casual, temporary or permanent staff; job candidates, training placements, apprentices and interns, contractors, sub-contractors and volunteers
- Students; and
- Other persons involved with KOI activities

The Policy covers:

- All activities that take place within KOI buildings or campuses;
- Work related events outside KOI that are coordinated or funded by or attended on behalf of KOI, including representing KOI at local, national, or international conferences, functions, events, and fieldwork;
- Social media or via technology where interaction occurs with colleagues, students or other people outside KOI and their actions may have a direct or indirect impact in breach of this Policy; and
- Staff and student interaction with colleagues, students and other persons in the course of their work-related duties and study.

3. Related Documents

This Policy is to be read in conjunction with KOI's:

- Work, Health and Safety Policy and related Manual
- Prevention and Resolution of Bullying, Discrimination and Harassment Policy
- Complaints and Appeals Policy (for students)
- Staff Complaints Policy
- Prevention and Resolution of Bullying, Discrimination and Harassment Policy
- Critical Incident Policy
- Discipline Policy
- Whistleblower Policy
- Student Non-Academic Misconduct Policy
- Student Code of Conduct



- Staff Code of Conduct
- Fairness and Equal Opportunity Policy
- Privacy Policy
- Documents and Records Control Policy

This Policy covers topics relevant to the following Federal and State of NSW laws:

- Sex Discrimination Act 1984 (Cth)
- Anti-Discrimination Act 1977 (NSW) and NSW Anti-Discrimination Board
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Fair Work Act 2009
- TEQSA Act 2011
- ESOS Act 2000
- Higher Education Standards Framework (Threshold Standards) 2021
- National Code 2007, Standard 8 (Complaints and Appeals)
- Privacy Amendment (Enhancing Privacy Protection) Act 2012 and the Australian Privacy Principles

This policy also draws on the [TEQSA Good Practice Note: Preventing and responding to sexual assault and sexual harassment in the Australian higher education](#) (July 2020).

4. Definitions

4.1. Policy Definitions

<i>Sexual assault</i>	Sexual assault is used to describe a broad range of sexual crimes committed against a person. These crimes include sexual intercourse without consent, aggravated sexual assault, indecent assault, and acts of indecency.
<i>Sexual harassment</i>	Sexual harassment, under the Sex Discrimination Act 1984 (Cth), is defined as any unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstance. Sexual harassment behaviour can take many forms, both physical and non-physical.
<i>Consent</i>	Consent is the voluntary agreement to engage in a sexual act/s and the continued agreement to engage in the act/s. Voluntary agreement to engage or to continue to engage must be communicated through words or conduct. Consent can be withdrawn at any point. Consent cannot be given if the person is under 16 years of age; is threatened with harm, extortion, or humiliation; is under the effect of drugs or alcohol; is asleep or unconscious; is incapacitated mentally or physically; or is unlawfully detained.
<i>Disclosure</i>	Disclosure is the sharing of information regarding any incident of sexual misconduct with another person.
<i>Report</i>	Report is a formal statement, verbally and/or in writing, regarding the incident of sexual misconduct given to KOI, police or other authority.
<i>Responsible Person</i>	A Responsible Person is appointed by the CEO and President to coordinate, on behalf of KOI, all aspects of investigation, reporting, liaison with external parties and any other matters connected with an investigation.



The responsible person must be acceptable to the complainant, be impartial, and have no apparent conflicts of interest.

<i>Workplace</i>	Place where a person needs to be or to go for work or study related purposes
<i>Work-related event</i>	A work-related event is an event organised by or on behalf of KOI, or attended while performing work related duties and which may be in a location other than KOI's premises.
<i>Staff</i>	Persons performing work or work-related activities that are under the control of the company.
<i>Contractor</i>	External organisation providing services to the organisation in accordance with agreed specifications, terms and conditions
<i>Other persons</i>	Other persons include any volunteers, students or visitors at KOI's premises.

4.2. Legal Terms and definitions

Legal Term	Definition
<i>Accessory Liability</i>	Individuals and employers can be held liable under section 105 of the Sex Discrimination Act 1984 (C'th) if they 'caused, instructed, induced, aided or permitted' an individual to commit an unlawful act. For example, a manager who is aware that an employee is being sexually harassed and does nothing about it may be held liable as an accessory to the harassment.
<i>Personal Liability</i>	The individual can be held responsible for their own unlawful acts under the Sex Discrimination Act (1984) (C'th) and in particular for the acts of sexual harassment and victimisation.
<i>Vicarious Liability</i>	An employer or organisation can be liable for discrimination, sexual harassment, and vilification as they are obliged to protect staff and students from such behaviour. Complaints can be made against individuals, staff, employers, and organisations. A defence to vicarious liability is to show that all reasonable steps were taken to prevent discrimination, sexual harassment, or vilification.
<i>Victimisation</i>	Section 94 of the Sex Discrimination Act 1984 (C'th) prohibits the victimisation of anyone connected with a complaint. Examples include: • An employee being moved to a position with lesser responsibilities while the complaint is being made; • A staff member being ostracized by other employees for providing information about inappropriate material being circulated in the organisation; • An employee being denied the opportunity of a promotion after unsuccessfully lodging a sexual harassment complaint against several supervisors; and • A student being disadvantaged after lodging a complaint.

5. Policy

King's Own Institute requires all staff, students, contractors and other persons in our organisation to:

- Behave in a responsible and professional manner and not to engage in sexual assault and sexual harassment;



- Treat others in our organisation with dignity, courtesy and respect, avoid gossip and respect the confidentiality of complaint resolution procedures;
- Have the right to raise sexual assault and sexual harassment issues or to make an enquiry or complaint in a reasonable and respectful manner without being victimised;
- Listen and respond appropriately to the views and concerns of others and offer support, both mentally and physically, to people who experience sexual assault or sexual harassment; and
- Be fair and honest in their dealings with others.

6. Principles

KOI will conduct the policy by providing a framework that:

- Provides staff, students and other persons with clear information about what constitutes sexual assault and sexual harassment and the consequences of failing to maintain appropriate standards.
- Identifies circumstances that constitute or could lead to sexual assault or sexual harassment to occur.
- Ensures that sexual assault and sexual harassment is not to be tolerated under any circumstances and appropriate action is taken against any person who breaches this policy.
- Ensures that the work and study locations for KOI staff and students are safe and free from any form of sexual assault and sexual harassment.
- Provides staff, students, and others in the organisation with clear information about what behaviours constitutes sexual assault or sexual harassment, both physical and non-physical, and that sexual assault and sexual harassment will not be tolerated under any circumstances. Appropriate action, including prosecution through civil or criminal action or both, will be taken against any person who breaches this policy.
- Identifies the factors that may create the potential for sexual assault or sexual harassment to occur.
- Supports the identification, reporting of and responding to sexual assault and sexual harassment.
- Provides transparency of the processes for dealing with complaints relating to sexual assault and sexual harassment, including communication of progress and any outcomes to parties involved.
- Treats those who have experienced or are involved with reporting sexual assault or sexual harassment with compassion and care, and provide timely and appropriate trauma-informed support so as to enable the continuation of work or study in safety and free from ongoing sexual assault and sexual harassment.
- Maintains appropriate confidentiality of persons involved in reports of sexual assault and sexual harassment.
- Provides appropriate information and support for any person who may have been involved in an instance of sexual assault or sexual harassment, including follow up reviews and establishing effectiveness of any actions taken.
- Provides for the monitoring and reviewing of the controls in place that support this policy.

7. Sexual assault and sexual harassment

Sexual assault is any unwanted behaviour of a sexual nature that makes a person feel uncomfortable, frightened or threatened. It can occur when a person is forced, tricked or coerced into sexual behaviour without agreeing to it. Sexual assault can take many forms, including, but not limited to:

- Rape – sexual intercourse against a person's will
- Forcible sodomy
- Forcible object penetration
- Marital rape
- Unwanted sexual touching
- Sexual contact with minors, whether consensual or not
- Incest (Sexual behaviour between family members.)
- Any form of unwanted or coerced sexual contact



Sexual harassment results in a person feeling offended, humiliated, intimidated or physically abused, including, but not limited to:

- Staring, leering or unwelcome physical touching;
- Sexual or suggestive comments, jokes or taunts;
- The display of clearly sexual material including photos, pinups;
- Making remarks with sexual connotations;
- Unwanted invitations to go out on dates or meetups;
- Requests for sex;
- Unsolicited demands or request for sexual favours;
- Intrusive acts of physical intimacy;
- Sexually explicit physical contact;
- Voyeurism and concealed observation (including filming) of private activities;
- Behaviour that may also be considered an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking, upskirting or obscene communications;
- Inappropriate use of social media, including revenge pornography, online video-conferencing and chat rooms; and
- Sexually explicit letters, emails, SMS text messages, phone calls or any other form of communication.

Sexual assault and sexual harassment can be either a repeated behaviour or a one-off incident.

Sexual harassment is not sexual interaction, flirtation, attraction or friendship which is invited, mutual, consensual or reciprocated. In this situation, other persons would not become involved in the issue. However, the behaviour may be unreasonable or inappropriate behaviour and may be offensive to other persons in the work environment.

If there is any indication that sexual assault or sexual harassment or other activity is against the law, for example physical assault or the threat of physical assault, it will be reported to the police.

8. Roles and responsibilities

The CEO and President has overall responsibility for the safety and wellbeing of students and staff engaged in activities at KOI.

The CEO and President will ensure preventative measures are in place to prevent sexual assault and sexual harassment. These preventative measures include:

- Encourage reporting of incidents and concerns in a supportive environment, including concerns raised in confidence.
- Maintain and enforce KOI's policy on preventing sexual assault and sexual harassment.
- Ensure all staff and students are aware of training and support and that they complete relevant training when scheduled.
- Provide an appropriate level of security and resources across the workplace and study locations (security, help points, CCTV etc.).
- Monitor the Learning Management System and KOI social media sites for evidence of sexual assault and sexual harassment.
- Discuss this policy at staff meetings to ensure that the policy is understood and being followed.
- Ensure that the relevant contact procedures for reporting incidents are known to staff and students.

KOI senior management and supervisors have a responsibility and duty of care to prevent any potential sexual assault and harassment. They have a responsibility to take action if they are aware of or notice inappropriate behaviours of a sexual nature, including the absence of a complaint.

KOI senior management and supervisors may be liable (under "accessory liability" requirements) unless reasonable steps have been taken to prevent or eliminate threats of sexual harassment.

Managers and supervisors must:



- Adopt appropriate standards of behaviour in accordance with this policy
- Take steps to educate and ensure staff, students, contractors and other persons are aware of their obligations under this policy and the law
- Intervene quickly and appropriately when they become aware of inappropriate behaviour
- Act fairly to resolve issues and enforce behavioural standards, ensuring relevant parties are heard
- Assist staff and students to resolve complaints, both formally and informally
- Refer formal complaints about breaches of this policy to the appropriate complaint handling person for further investigation
- Ensure staff, students, contractors and other persons who raise an issue or make a complaint are not victimised
- Ensure that recruitment decisions are based on merit and that no discriminatory requests for information are made
- Seriously consider requests for flexible work arrangements

All staff, students, contractors, partners, and visitors have a responsibility to:

- Foster safe and inclusive work and study environments free from sexual harm, where all members of the KOI community are treated with dignity, courtesy, and respect.
- Report concerns immediately to their supervisor or teacher in relation to unwelcome sexual behaviour.
- Report all instances of sexual assault and sexual harassment that they have witnessed.
- Offer support to anyone who is being harassed and put them in contact with the relevant KOI support services and specialised support;
- Maintain confidentiality if they receive information during the management of a complaint and ensure that there is no victimisation.
- Use the provisions of the relevant Complaints Policy (for staff and students) to lodge complaints where appropriate.

Staff must complete training on sexual assault and sexual harassment via Moodle at least once every three years. All new staff are required to complete training within the first three months of their appointment. Students will receive instruction regarding sexual assault and sexual harassment during the induction process.

9. Reporting of Sexual Assault and Sexual Harassment (Complaints)

Reporting process

Complaints will be reported and managed through the application of the following policies:

- Staff Complaints Policy
- Complaints and Appeals Policy (for students)
- Whistleblower Policy
- Discipline Policy

The reporting processes contained in these policies recommends adopting either or both:

- An Informal Approach, whereby it may be possible to resolve the situation informally through discussion between the concerned parties, and an agreement to a change in behaviour;
- A Formal Approach, whereby a formal complaint is lodged in writing setting out the circumstances and initiating a formal investigation of the complaint, and outcomes are documented and acted upon.

KOI recognises that reporting instances of sexual assault and sexual harassment can be sensitive to those directly affected by or observing such behaviours. While KOI understands and recognises that there may be reluctance to report such behaviours, those directly affected by or observing such behaviours should consider KOI's legal obligation to provide a safe environment and that, by failing to report, there is an increased likelihood that such behaviours will continue. As a consequence, anyone experiencing or observing such behaviours are strongly encouraged to report incidents and concerns in relation to unwelcome and/or unacceptable behaviour on a timely basis so that KOI can take appropriate action.



KOI also has a legal obligation to report incidents to law enforcement authorities that could be considered to constitute a criminal offence. This obligation extends to persons covered by this policy.

If a staff member, student, contractor or other person is experiencing or witnessing sexual assault (including violence) or sexual harassment and are not comfortable reporting the incident themselves the incident should be raised promptly with anyone within KOI who the complainant trusts (trusted person) together with a request, verbal or written, that the incident be reported. On being requested to report the incident, it is then incumbent on that trusted person to ensure that the matter is reported, verbally or in writing (all verbal reports must subsequently be reported in writing), as quickly as possible to either the complainant's supervisor, the Human Resources Manager, a teacher, a member of management, a member of the executive or to a nominated person in accordance with the relevant policy (Complaints and Appeals Policy (for students) and Staff Complaints Policy).

The identity of complainants and/or victims must be kept confidential at all times, and their privacy maintained, unless authorised otherwise by the complainant/victim.

The matter will then be elevated to the appropriate investigating agent; the agent may be the Vice-President Academic (for students) or to the Human Resources Manager or an external victims' support agency (for staff). The CEO and President must be informed of the matter, although the identity of the complainant/victim must not be disclosed in this process unless authorised by the complainant/victim. A complainant who does not report an incident immediately, for whatever reason, shall receive the same level of attention, assistance and support as an individual who reports an incident immediately.

If the incident involves physical assault, the victim of that assault, witnesses to that assault or the trusted person should immediately contact the police and relevant emergency services, and ensure that the CEO and President is informed immediately.

If the incident, particularly sexual assault, occurs after hours and/or immediate assistance is required, Security should be notified immediately. Security will initiate an immediate response depending upon the circumstances, including requesting assistance from emergency services.

KOI encourages affected persons to report instances of sexual assault and sexual harassment and supports the safety and confidentiality of those that report.

Criminal and Civil Law Offences

Allegations of sexual assault may also be considered an offence under civil and criminal law; victims are encouraged to report the incident or behaviour directly to NSW Police.

Sexual Assault and Sexual Harassment can also be reported to the Australian Human Rights Commission (AHRC) (<https://humanrights.gov.au/>) or to the NSW Anti-Discrimination Board (<https://antidiscrimination.nsw.gov.au/anti-discrimination-nsw/complaints/how-to-make-a-complaint.html>) who will be able to provide advice to the complainant. In the event that such a report is made, the CEO and President should be informed immediately.

Civil and criminal offences include:

Civil offences include:	Offences under criminal law
- Staring or leering at a person or parts of their body; - Stalking; - Unnecessary familiarity, for e.g. deliberately brushing up against you or unwelcome touching or massaging; - Unwelcome kissing or embraces; - Suggestive comments or jokes; - Insults or taunts of a sexual nature; - Intrusive questions or statements about a person's private life;	- Physical molestation or assault; - Indecent exposure; - Sexual assault; - Stalking; and - Obscene communications such as telephone calls and letters.



• Displaying posters, magazines, or screen savers of a sexual nature; • Sending sexually explicit emails, phone calls or text messages; • Offensive messages on social networking sites; • Accessing sexually explicit internet sites; and • Requests for sex or repeated unwanted requests to go out on dates.	
---	--

Response process

King's Own Institute treats all reports of sexual assault and sexual harassment extremely seriously, KOI will respond promptly, impartially and confidentially.

The complainant has the right to privacy and, their identity must not be disclosed to any party, other than to the person receiving the initial complaint, unless disclosure of identity is authorised by the complainant. This request must be respected by all parties who are made aware of the incident.

Upon being notified of an incident of sexual assault or sexual harassment, the CEO and President will appoint a responsible person acceptable to the complainant to coordinate all aspects of investigation, reporting, liaison with external parties. The responsible person will:

- Ensure that anyone who discloses or reports that they have experience or observed sexual misconduct, will be treated with compassion and care, and provided with timely and appropriate trauma-informed support to continue to work or study in safety and free from further harassment.
- Ascertain the mental and physical condition of the affected person(s) and, if appropriate, arrange immediate medical assistance.
- In the event that there are any indication that civil or criminal laws have been breached, inform the relevant law enforcement agencies and assist in ongoing investigations.
- Speak to the parties involved as soon as possible, gather information and seek to address the issue.
- In the event that the complaint is anonymous, then the responsible person will speak to any named parties to determine the substance of the complaint.
- Ensure that there is no victimisation of the person making the report or helping to resolve it.
- Keep the CEO and President informed of the status of investigations.

All complaints involving sexual assault and sexual harassment will be notified immediately to the CEO and President who will ensure that appropriate actions are being taken in accordance with the relevant Complaints and Discipline Policies. The CEO and President will notify the Chair of the Audit and Risk Committee of complaints and the actions being taken. All complaints relating to sexual assault and sexual harassment will be communicated on a timely basis to the Council by the CEO and President and the Chair of the Audit & Risk Committee with regular updates provided regarding the status of any investigation and the proposed actions.

If an investigation finds sexual assault or sexual harassment has not occurred or cannot be substantiated, KOI may still take appropriate action to address any issues leading to the report.

The CEO and President will provide an annual report to the Council on the operation of the policy, types of complaints and responses, information and training provided and sector comparisons.

Disciplinary and Follow-up Actions

Appropriate disciplinary action, as set out in the respective disciplinary policies may be taken against a person who is found to have breached this policy. The action taken will depend on the nature and circumstance of each breach and could include (but not limited to):

For Staff

- a verbal or written apology;



- one or more parties agreeing to participate in counselling or training;
- verbal or written reprimand;
- transfer, demotion or dismissal of the person engaging in the unreasonable behaviour; or
- legal action.

For Students

- a verbal or written apology;
- one or more parties agreeing to participate in counselling and/or training;
- verbal or written reprimand;
- expulsion from KOI; or
- legal action.

Complaints made maliciously or in bad faith may result in disciplinary action.

10. Access to Support

Students can access trained counsellors at KOI who can assist with relevant strategies, outcomes, and support when a student is experiencing any form of inappropriate behaviour. They can also refer the person to an external practitioner or authority for specialised support.

Staff or affiliates can access KOI's Human Resources support department who can assist with relevant strategies, outcomes, and support when the staff or persons, is experiencing any form of inappropriate behaviour. They can also refer the person to an external practitioner or authority for specialised support.

KOI also provides resources to support those staff that are most likely to receive disclosures and or reports by providing access to adequate training and support.

Depending on the allegation of sexual assault or harassment, contact can be made with the National Sexual Assault, Family and Domestic Violence Counselling Line (1800737732) or the NSW Rape Crisis Centre (1800424017) for online and telephone counselling.

11. Confidentiality and Record Keeping

All information associated with the reporting and disclosure of sexual assault and sexual harassment remains confidential. No information will be released to any third party or external agency unless required by law or the complainant expressly consents to its release in writing.

All relevant records must be kept in KOI's records management system, in accordance with the Documents and Records Control Policy.

Document control

Policy title	Prevention and Resolution of Sexual Assault and Sexual Discrimination Policy
Policy owner	Human Resources Manager
Policy version date	13 April 2023 Version 2.0
Policy approver	Council on the recommendation of the Audit & Risk Committee
Date of approval	17 March 2023, with minor amendments approved 17 April 2023
Date of implementation	17 April 2023
Date of next review	1 July 2025 for 1 January 2026 implementation
Changes in this version	Major rewrite and expansion



KOI amends its policies periodically and printed copies of this document, either in part or whole, are considered as uncontrolled and should not be relied upon as the most current document. It is the responsibility of individuals printing the document to always refer to the KOI website for the current version.

*****END OF POLICY*****