

COLLARTS

Sexual Assault and Sexual Harassment (SASH) Prevention and Response Policy

Purpose

Collarts aims to provide a positive work and study experience for all its students, staff and other members of the community, in a safe and inclusive environment that is free of sexual assault and sexual harassment. This Policy sets out the overarching principles and commitment to preventing and responding to incidents of sexual assault or sexual harassment.

Scope

This Policy applies to the following members of the Collarts community when engaged in college related activities:

- all enrolled students and current staff
- all individuals who interact with Collarts staff and students, such as visitors, contractors, business partners, internship hosts, former staff and students

This policy applies regardless of the location or environment in which the incident occurs.

Definition of Key Terms

Sexual misconduct includes incidences of *sexual harassment* and *sexual assault*.

Sexual harassment means any unwelcome/uninvited comments and/or advances of a sexual nature made in Collarts' physical and/or virtual environment by verbal, non-verbal or technology-facilitated means, including images. It also refers to physical conduct of a sexual nature whose purpose is to intimidate, degrade or offend another person. Examples of sexual harassment include:

- staring, leering or unwelcome touching
- suggestive comments or jokes
- unwanted invitations to go out on dates or requests for sex
- intrusive questions about a person's private life or body
- unnecessary familiarity, such as deliberately brushing up against a person
- emailing pornography or rude jokes
- communicating content of a sexual nature through social media or text messages

Sexual assault means sexual contact without consent, ranging from forced kissing and touching to forced intercourse.

Consent means that a person is able to and has freely chosen to take part in sexual contact and has expressed this through mutually understandable words or actions. Consent requires ongoing agreement and it can be withdrawn at any time. Where consent is withdrawn, or cannot be given, sexual contact must stop.

Procedural fairness means that:

- decisions relating to allegations of misconduct must be made based on evidence provided
- an alleged perpetrator is entitled to be given notice of the allegations against them and of any associated process
- an alleged perpetrator will be given the opportunity to respond to allegations of misconduct
- all parties may be accompanied to any meeting by a support person, if they wish
- the parties involved will not be required to meet with one another to reach a resolution
- a person will not hear or determine a misconduct allegation if they are personally and substantially involved in any aspect of the allegation, if they have a current or prior close and personal relationship with the person being investigated for misconduct, or with the person who has made an allegation of misconduct.

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.

Interim measures are temporary restrictions or requirements regarding who a student or staff member can contact, or how they can make contact, or where they can go on campus and at what time(s). These restrictions are put in place to minimise the potential for harm to a student or staff member and do not anticipate the outcome of any Collarts or external investigation.

Active bystander intervention means seeing and recognising a potentially harmful situation and choosing to respond in a safe and lawful way that could prevent or stop the harm from happening or continuing.

Principles

The *Wellbeing & Safety Policy Framework* sets out the ways in which Collarts fosters a safe and positive learning and work culture. As part of this approach, Collarts maintains zero tolerance of negative behaviours, including sexual misconduct.

To achieve this Collarts is committed to:

- implementing ongoing education and training for students and staff
- providing mechanisms for individuals to report any such behaviour to Collarts
- providing evidence-based and person-centred support services to individuals affected by such behaviour
- promptly assessing all reports of such behaviour and/or referring such reports to the appropriate authorities
- applying Collarts *Privacy Policy* and the principles of procedural fairness and confidentiality to the investigation of such reports
- acting on the outcomes of such investigations in a timely and sensitive manner.

Policy Statement

1. Education and Training

Collarts is committed to *preventing* sexual misconduct in its physical and virtual environments through ongoing education and training. Collarts provides education about this Policy through its Student Orientation and Staff Induction processes. All students will be introduced and referred to the online “Consent Matters” module during orientation activities.

All staff are strongly encouraged to complete a training course based on the “Consent Matters” program.

Usage data from the Consent Matters module will be regularly reported to relevant committees to monitor participation rates, and student and staff culture regarding SASH issues.

Exemptions will be granted to students and staff who:

- can provide evidence of having completed this course, or its equivalent, during the past 24 months
- may experience negative impacts on their wellbeing due to past experiences

2. Disclosure and Reporting

Individuals who have directly experienced sexual misconduct involving Collarts staff or students have the right to decide what information they disclose. Making a disclosure starts a process of information and support provision, which may include making a report, but does not start an investigation. Collarts encourages such individuals to make a report via 1800 RESPECT, to the Police, to Collarts Student Services, or a Collarts Wellbeing Practitioner.

Collarts encourages individuals who have directly experienced sexual misconduct involving Collarts staff or students to file a report with the Police or Collarts so that support can be provided, and an investigation can be initiated. Reports can also be filed by individuals who have heard about, or witnessed, such an incident occurring. Such reports must not identify the people involved without their consent. A Collarts Student Services staff member, Collarts Wellbeing Practitioner, or other staff, can fill in the form on behalf of a student, allowing the student to choose to be named or remained anonymous. The assessment of an anonymous disclosure may lead to information being shared with the Police or other relevant authority. Collarts may not be able to take any further action on an anonymous disclosure, or on a report that does not involve Collarts staff or students; but in all cases it will use the information provided to improve its processes for monitoring and response to such incidents.

The Critical Incident form will be used to capture these reports.

Collarts recognises that the length of time between an alleged incident of sexual misconduct and the making of a report may vary, depending on a range of factors. However, Collarts' ability to take effective action diminishes over time.

The provisions of Collarts's *Privacy Policy* apply to the management, internal and external reporting and disclosure of any personal information contained in any disclosures and reports. Within Collarts, information from a disclosure or report may only be accessed by staff who need this information to act on it. Students and staff involved in Collarts response to an incident must keep all details confidential. Breaches of confidentiality will be dealt with under the *Student Misconduct Policy* or the *Staff Code of Conduct*.

Individuals involved in any report, investigation or response may only disclose information in confidence if seeking external support or advice from:

- an immediate family member
- a registered health professional
- a counsellor
- a spiritual leader or Elder
- a registered legal practitioner
- Police
- staff from relevant government agencies, including the Anti-Discrimination Board (NSW), the Human Rights and Equal Opportunity Commissioner (Victoria), the Australian Human Rights Commission, or the Tertiary Education Quality and Standards Agency

3. Response to Reported Incidents of Sexual Misconduct

Collarts will apply the principles of procedural fairness to the investigation of any reported incidences of sexual misconduct involving Collarts staff or students. Collarts will investigate alleged sexual misconduct in accordance with the provisions of the *Student Misconduct Policy* and/or the *Staff Code of Conduct*, or both, as appropriate. If the allegation in the Report is substantiated, in whole or in part, Collarts will impose an appropriate disciplinary outcome. If there is evidence that the allegation is a *vexatious complaint*, Collarts may instead impose an appropriate disciplinary outcome on the person who lodged it.

An investigation by Collarts does not preclude a criminal investigation by an external agency. Collarts investigation may have to be delayed if the allegation is reported to the Police or another external agency either by the person making the Report or by Collarts if this is required under the law. Investigations may include, but not be limited to: interviews with all involved parties, interviews with witnesses, review of security footage, interview with first responder.

Collarts may implement *Interim Measures* while a Report is under investigation. A student or staff member who is subject to Interim Measures has the right to ask for the measures to be removed or varied, however Collarts has the right to deny this request.

An enrolled student or current staff member who wishes to appeal the decision of Collarts in a sexual misconduct matter may use the provisions of the relevant *Grievances & Appeals Policy*. The appeals process is available to both the victim and alleged perpetrator. Other individuals who are dissatisfied with the decision made may have recourse to external agencies such as the Anti-

Discrimination Board (NSW), the Human Rights and Equal Opportunity Commissioner (Victoria), and/or the Australian Human Rights Commission.

4. Protection from Reprisals, Retaliation, or Threats

Individuals must not victimise another person, or commit or threaten to commit an act of reprisal, because that person has:

- intervened in a potentially harmful situation as an *active bystander*
- asked for, or referred someone else for, support regarding sexual misconduct
- reported sexual misconduct or provided information about such a report
- helped someone else to report sexual misconduct
- been the subject of a report of sexual misconduct.

5. Publication

This Policy is made available to:

- currently enrolled students via the [MyCollarts Student Portal](#) section of Collarts website;
- current staff via the [Staff Intranet](#)
- other individuals external to Collarts, including prospective students, via Collarts website www.collarts.edu.au

Roles and Responsibilities

The *Managing Director* is responsible for overseeing Collarts compliance with the requirements of relevant legislation and for ensuring that all Board and Committee members and Senior Executives are aware of these requirements and apply them to their areas of operation. This includes contracts with external business partners, such as agents and internship hosts.

The Dean has the delegated responsibility for the implementation of the Policy across Collarts and for ensuring operational compliance. This includes the provision of ongoing training for staff and students.

Collarts First Responders are trained to provide an appropriate initial response, including advice about available Collarts and external support services and the process for making a Report.

All *staff* and *students* are responsible for understanding and complying with the provisions of this Policy.

Related Legislation and Standards

Sexual Discrimination Act 1984 (Cth)

Anti-Discrimination Act 1977 (NSW)

Crimes Act 1900 (NSW)

Equal Opportunity Act 2010 (Vic)

Crimes Act 1958 (Vic)

Higher Education Standards Framework (Threshold Standards) 2015 Domains 2 and 7

Education Services for Overseas Students Act (ESOS) 2000

National Code of Practice for Providers of Education and Training to Overseas Students 2018 Standards 2,6,8,10.

Key Related Documents

- *Complaints Management Policy Framework*
- *Critical Incident Management Policy*
- *Internet, Social media, Email and Computer Use Policy*
- *Privacy Policy*
- *Staff Code of Conduct*
- *Staff Grievances & Appeals Policy*
- *Student Grievances & Appeals Policy*
- *TEQSA Good Practice Note: Preventing and responding to sexual assault and sexual harassment in the Australian higher education sector*
- *Misconduct Policy*
- *Welfare and Safety Policy Framework*

Further Information

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