



2.8 HARASSMENT, BULLYING AND DISCRIMINATION POLICY

Responsible Officer	Master
Review Date	2024

1. Purpose

The purpose of this policy is to outline the rights and responsibilities for all individuals who reside at or undertake work for and with the College communities to ensure a safe and respectful environment that is free from all forms of inappropriate conduct.

This policy provides a framework to assist in the promotion of such an environment and to ensure that alleged cases of unlawful Harassment, Bullying, Discrimination and Violence are dealt with swiftly and appropriately.

2. Overview

As a University College founded on Christian faith and values, New College is committed to providing a safe working and living environment where all workers and residents are treated with dignity, courtesy, respect and fairness. In such a community there is no place for harassment in any form.

The New College communities provide opportunities for relationship connections through a rich variety of social, cultural, spiritual and intellectual experiences. The strong academic and pastoral support systems which the Colleges offer reflects that the progress and wellbeing of residents is at the core of College life. Residents and staff at the College contribute to each other and enjoy the privileges of membership of this community, and with it, responsibility to always engage in respectful relationships and contribute in positive ways to the lives of other people and the building of safe and respectful communities.

The College Handbook encourages residents to think critically, make informed choices, act ethically, hold themselves and others accountable for their actions, and to report instances of inappropriate behaviour.

Bullying, Harassment, Discrimination and Violence (in all their forms) and the behaviours associated with these will not be tolerated under any circumstances and are prohibited by state and federal legislation.



3. Scope

This policy applies to all members of the College community including staff, residents, visitors and contractors who are engaged in any official College activity, whether on College property or off-site. It further includes participation in, or the publication of information on, any electronic medium. Where an activity is not under the official auspice of the College, the College will act on any allegation to the extent it is able to reasonably do so.

4. Definitions

Assault	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, or administering an intoxicating substance.
Board	The Board of New College (incorporating the Board of New College Postgraduate Village) comprising members appointed by Standing Committee, UNSW and the Board itself
Bullying	Repeated and unreasonable behaviour directed towards a person or group of people that creates a risk to health and safety.
Bursar	The Public Officer of New College and New College Postgraduate Village
Bystander	Bystanders are individuals who observe harassment (including sexual harassment) or bullying firsthand or are subsequently informed of the incident(s)
College or New College Communities	General terms for New College and New College Postgraduate Village as separate but related companies limited by guarantee under the control of the Board and Master
Complainant	Used to identify the resident or staff member who believes that they have been subject to, or have witnessed, harassment, bullying, sexual harassment and/or unlawful discrimination
Consent	For the purposes of this policy, consent is defined to be consistent with the NSW Crimes Act (NSW Government 1900), Section 61HA. This is specifically that a person consents only if that person freely and voluntarily agrees. Consent must be knowingly obtained and is negated if the party required to give consent does not have the capacity to consent due to age, consciousness, unlawful detention, mistaken identity or the influence of drugs and alcohol
Contractor	A person that undertakes a contract to provide materials or labour to perform a service on the College premises
Dean of Residents	The senior staff living on College premises, reporting directly to the Master and responsible for overseeing residential pastoral care and academic tutorial programs



Discrimination	<p>Discrimination is when an individual is subject to unfair treatment because they belong to a particular group of people or have, or are imputed to have, a particular personal characteristic that is protected by law.</p> <p>Protected attributes are recognised under State and Federal legislation as:</p> <ul style="list-style-type: none">• Race, including colour, nationality, descent, and social origin• Sex and sexual orientation• Age• Physical or mental disability• Marital status• Family or carer’s responsibilities,• Pregnancy or breastfeeding• Religion or political belief or activity
Harassment	<p>Harassment is any form of behaviour which is uninvited or unwanted and reasonably offends, humiliates or intimidates an individual or group of people, and targets them on the basis of a protected attribute.</p>
Indecent assault	<p>Any person who assaults another person and, at the time of, or immediately before or after, the assault, commits an act of indecency on or in the presence of the other person. (NSW Crimes Act (NSW Government 1900), Section 61L). Indecency is defined by common law</p>
Master	<p>The chief executive officer of New College and New College Postgraduate Village appointed by the Board</p>
Resident	<p>Any student, (undergraduate or postgraduate), visiting academics to UNSW, or other educational institutions, or members of staff or families, living on site at New College and New College Postgraduate Village</p>
Respondent	<p>Used to identify the resident or staff member about whom a complaint of workplace harassment, sexual harassment, bullying and/or discrimination has been made</p>
Senior Residents	<p>Residential Advisers at New College and Senior Residents at New College Postgraduate Village, employed to provide direct pastoral care for residents</p>
Sexual Assault	<p>Any person who has sexual intercourse with another person without the consent of the other person and who knows that the other person does not consent to the sexual intercourse (NSW Crimes Act (NSW Government 1900), Section 61I, sexual intercourse is defined in Section 61H)</p>
Sexual Misconduct	<p>Sexual misconduct encompasses any form of harassment of a sexual nature, indecent assault, sexual assault and voyeurism</p>
Staff /Worker	<p>Any person on the College payroll including senior residents and academic tutors</p>
Voyeurism	<p>A person who, for the purpose of obtaining sexual arousal or sexual gratification, observes a person who is engaged in a private act</p>



5. Policy Statement

New College promotes a positive workplace and college environment that is free from any form of harassment, discrimination and bullying and ensuring an environment where all members of the College can function effectively and participate fully in their respective areas. As such, this policy seeks to inform the College communities about Harassment, Bullying and Discrimination, to make it clear that such actions or behaviour will not be tolerated and outline the steps the College will follow in responding to allegations, and to encourage members to seek help for any situation where they feel uncomfortable.

Confidentiality will be respected at all times. However, where an alleged crime may have been committed, the police or similar outside agencies may be contacted and the grievance process may then be managed externally to New College.

5.1. What constitutes unlawful Harassment, Bullying and Discrimination

5.1.1. Harassment

Harassment is any form of behaviour which is uninvited or unwanted and reasonably offends, humiliates or intimidates an individual or group of people, and targets them on the basis of a protected attribute.

Harassment on protected grounds includes:

- **Sexual Harassment:** unwanted sexual advances or requests for sexual favours, or otherwise unwelcome behaviour of a 'sexual nature' that a reasonable person would anticipate the recipient being offended, humiliated or intimidated. [Sexual Discrimination Act, 1984]
- **Harassment on the grounds of sex:** unwelcome conduct of a seriously demeaning nature, by reason of the person's sex, or a characteristic that appertains generally to persons of that sex, or that is generally imputed to persons of that sex, in which a reasonable person would anticipate the possibility that the person harassed would be offended, humiliated or intimidated. [Sex Discrimination and Fair Work (Respect at Work) Amendment Bill, 2021]
- **Disability Harassment:** uninvited or unwanted behaviour of a person who has a disability, in relation to the disability, that reasonably humiliates, offends or intimidates. [Disability Discrimination Act, 1992]
- **Racial Hatred:** prohibits any act which reasonably offends, insults, humiliates or intimidates a person or group of people and the act is done because of the race, colour or national or ethnic origin of the person or some or all of the people in the group. [Racial Discrimination Act, 1975]



Examples of unlawful harassment, including sexual harassment, may include:

Verbal:

- Sexist or racist jokes
- Comments of a sexual nature
- Repeated unwanted invitations
- Imitating one's accent
- Making derogatory comments or taunts about a person's disability
- Asking intrusive questions about a person's personal life including their sex life

Non-Verbal:

- Staring or leering in a sexual manner
- Offensive hand or body gestures
- Sexually explicit emails, text messages or posters
- Uninvited touching or kissing
- Displaying material that is racist, sexist, sexually explicit or offensive
- Ignoring, isolating, segregating a person or group

5.1.2. **Bullying**

Bullying is defined as repeated and unreasonable behaviour directed towards a person or group of people that creates a risk to health and safety.

Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating, or threatening.

Examples of bullying behaviours (whether intentional or unintentional) include, but are not limited to:

- Behaving aggressively towards others
- Teasing or playing practical jokes
- Pressuring someone to behave inappropriately
- Deliberately excluding someone from work-related or community events
- Abusive, insulting, or offensive language
- Aggressive and intimidating conduct
- Spreading misinformation or malicious rumours
- Interfering with someone's personal property
- Belittling, teasing, humiliating, or constantly criticising someone; or
- Work demands such as:
 - setting tasks that are unreasonably below or beyond a person's skill level
 - setting unreasonable timelines or constantly changing deadlines



- withholding information that is vital for effective work performance
- denying access to information, supervision, consultation, or resources to the detriment of the Worker; or
- changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular Worker or Workers.

A single incident of unreasonable behaviour is not workplace bullying, however, it may be repeated or escalated so should not be ignored.

5.1.3. **Discrimination**

Discrimination is when a person, or group of people, are treated unfavourably, or less favourably, due to a particular personal characteristic that is protected by law.

Protected attributes are defined under the Fair Work Act as race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy or breastfeeding status, religion, political opinion, national extraction and social origin.

Discrimination may be **direct** or **indirect**, such as when an imposed requirement or practice is unreasonable or disadvantages a person within a protected group.

Exceptions to unlawful discrimination occur if the actions:

- Are allowed under state, territory, or federal anti-discrimination laws
- Are based on the inherent requirements of the particular position concerned
- Do not relate to one or more of the protected attributes, or
- Are taken in the context of a religious institution, and the action is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed, taken in good faith and to avoid injury to the organisation's religious beliefs and adherents – for example, in the selection or appointment of staff.

5.2. Responses to allegations of Harassment, Bullying or Discrimination within the College Community

5.2.1. New College staff and residents are encouraged to report inappropriate behaviour (whether experienced, witnessed, or heard about) verbally or in writing to a Senior Resident, the Dean of Residents, the Master, or to the Compliance Officer (Bursar) at **E: compliance@newcollege.unsw.edu.au**

5.2.2. All grievances and complaints will be dealt with seriously and sympathetically.



- 5.2.3. Harassment is not tolerated at the College and hence breaches of this policy will lead to swift disciplinary action including but not limited to formal cautions, fines or expulsion for residents or possible dismissal for staff in accordance with the provisions of their residency or employment contract and this policy.
- 5.2.4. Every attempt will be made to resolve the issue at the lowest possible level. In the event that this may not be possible, other steps may need to be taken, including the activation of an investigation and/or misconduct or serious misconduct procedures as specified in appropriate agreements or policies and procedures.
- 5.2.5. A report at the conclusion of the investigation will determine the action (if any) to be taken, including disciplinary action, and the findings will be communicated to the relevant parties to the extent that it is legally permissible and appropriate to do so.
- 5.2.6. Any individual who makes a grievance or complaint in good faith will not be treated unfairly, victimised, or penalised as a result of raising a grievance or complaint.
- 5.2.7. Pursuit of allegations of breach of this policy will be undertaken in accord with guidelines developed by the NSW Ombudsman for universities for dealing with complaints (NSW Ombudsman, 2015). Special care will be taken to respect the wishes of the complainant, to protect any complainants against reprisals and to maintain confidentiality in accordance with the Ombudsman's guidelines
- 5.2.8. Where the Master has firm grounds to suspect that a serious indictable offence has been committed, the case will be referred to Police as required by Section 316 of the NSW Crimes Act (1900)
- 5.2.9. The Master is bound to confidentially report all instances of sexual misconduct to the University of New South Wales.

5.3. Investigating Officers:

- 5.3.1. In general, the Dean of Residents will be the Investigating Officer in relation to residents and guests. The Master will supervise the investigation to ensure that it happens in a timely manner.
- 5.3.2. If the matter relates to a member of staff or contractor, the Master will investigate, reporting to the Board Chair.
- 5.3.3. If the matter relates to the Master, the Board Chair will investigate and report to the entire Board.

2.8 Harassment, Bullying and Discrimination Policy



5.3.4. The College reserves the right to appoint an external investigator to conduct an investigation as it deems appropriate.

5.4. Confidentiality and record keeping:

- 5.4.1. Confidentiality (except when reporting to appropriate staff), fair treatment, and appropriate support are to be maintained for all parties involved before, during and after any investigation into complaints of wrongdoing.
- 5.4.2. Information about a complaint will only be made available to those directly involved in the investigation or resolution of a case
- 5.4.3. Anonymous allegations of Harassment, Bullying or Discrimination will be received by College staff.
- 5.4.4. Investigating Officers (Section 5.2.11) will keep confidential file notes on all cases of alleged breaches of this policy. The Board, Master or nominee may examine any document at any time.
- 5.4.5. Records will be stored securely in compliance with New College's Privacy Policy (2.11) and Data Retention Policy (2.13) and will be kept only for as long as it is required and in accordance with legal requirements. Once the information is no longer required by the College for any purpose, that information will be destroyed or permanently removed.

5.5. Witnesses / Bystanders to Inappropriate Behaviour

If any member of the College community is witness to behaviour that they consider may constitute Harassment, Sexual Harassment, Bullying or unlawful Discrimination, or they are a bystander, it is appropriate and important that they raise their concerns about such behaviour to a suitable community leader (e.g. Senior Resident, Dean of Residents, Master). These senior staff can provide advice and assistance to observers of alleged inappropriate behaviour regarding alternatives and strategies to safely raise their concerns.

5.6. False, Malicious or Vexatious Allegations

Community members who make false, malicious or vexatious allegations are in breach of this policy and that behaviour may be viewed as misconduct or serious misconduct.



5.7. Defamation

Parties involved in allegations of harassment, bullying, sexual harassment and /or unlawful discrimination should be aware of the principles of defamation.

5.8. Approaching External Agencies

The College recognises the rights of staff and residents to seek resolution of their concerns or to seek independent advice from external agencies such as the unions, Employee Assistance Program, Dispute Resolution Centre, Respective state Anti-Discrimination Commissions, and University Student services.

6. Legal and Policy Framework

The College has obligations as part of its duty of care towards staff and residents of the college. These are set within a broad framework of government legislation and common law that covers individual rights of all those within the College community.

All of the following types of behaviour constitute Sexual Harassment and are banned by the College because they are crimes:

- Indecent, sexual or physical assault of any type (including some forms of initiation rites)
- Displaying the sexual parts of one's body
- Any form of voyeurism
- Unwanted touching of the sexual parts of someone else's body
- Stalking

In view of the conflict of interest as well as the possibility of breaches of this policy being alleged against staff, sexual relationships between members of staff, or between staff and college residents are expressly forbidden (excluding persons married to each other). This also applies to employed residents (Residential Advisers, Senior Residents and Tutors).

The following Anti-Discrimination laws have particular relevance to this policy:

- [Anti-Discrimination Act 1977 No 48 - NSW](#)
- [Sex Discrimination Act 1984 \(Cth\)](#)
- [Disability Discrimination Act 1992 \(Cth\) S 35](#)
- [Racial Discrimination Act 1975 \(Cth\) S 18C](#)
- [Human Rights and Equal Opportunity Commission Act 1986 \(Cth\)](#)
- [Fair Work Act 2009 \(Cth\)](#)



- [Sex Discrimination and Fair Work \(Respect at Work\) Amendment Act 2021 \(Cth\)](#)
- [Equal Opportunity for Women in the Workplace Amendment Bill 2012 – Parliament of Australia \(Cth\)](#)
- [Age Discrimination Act 2004 \(Cth\)](#)
- [Work Health and Safety Act 2011 \(Cth\)](#)

Harassment, including many forms of bullying and intimidation that do not contravene Anti-Discrimination law, may make the College unsafe and may also contravene Workplace Health and Safety law. They may also amount to negligence and a breach of the College's duty of care to its employees and residents. In the College environment, robust activities and pranks are common. This heightens the need for residents and staff to appropriately differentiate between good fun and harassment.

7. Implementation and Responsibilities

All staff are expected to promote respectful relationships and appropriate standards of conduct at all times. They are to be good role models, to not engage in any behaviour that could be interpreted as Harassment, Sexual Harassment, Bullying or unlawful Discrimination, and to take care not to leave themselves open to false allegations of harassment.

Staff are to make every reasonable effort to prevent Harassment in all its forms occurring within the College or in association with College activities outside College premises, and to attend training as and when required.

7.1. The Board

The New College Board has a duty to set clear expectations and model appropriate behaviours to ensure that the College maintains a positive culture and safe operating environment by regularly reviewing this policy and monitoring its implementation and reporting.

7.2. The Master

The Master is responsible to establish and monitor procedures for the prevention of Harassment. Such procedures as a minimum should ensure that:

- Staff and residents are made aware of their responsibilities and rights in this area
- There is a rapid response from staff when Harassment is identified
- In the case of forms of harassment that could constitute criminal behaviour, these are thoroughly investigated, and external organizations notified and involved where relevant
- Ongoing monitoring of Harassment occurs and that the Board is informed in the case of serious breaches of College policy and procedures.

2.8 Harassment, Bullying and Discrimination Policy



7.3. Deans of Residents and the Compliance Officer (Bursar)

The Deans of Residents are responsible to ensure that the College is free of sexist, racist, or any other type of stereotyping material, posters, screen savers, etc and to promote respectful relationships within the communities and make it clear that harassing behaviours in any form will not be tolerated from residents or colleagues.

In general, the Dean of Residents, under the supervision of the Master, will be the designated investigating officer in relation to allegations of Harassment, Sexual Harassment, Bullying, or Discrimination amongst Residents. It is the responsibility of all staff and residents to report immediately any Harassment, discussion of Harassment, or receipt of a report about an alleged act of Harassment or Discrimination.

7.4. Residents

It is the responsibility of all residents to respect the rights of others and ensure that they do not become involved in or encourage any forms of Harassment. Every resident has the legal right to a work/study environment that is safe, and that is not sexually harassing, sexist, racist, anti-gay, anti-disability, ageist, or stereotyping in any other way.

Residents will be encouraged to help prevent harassment from occurring and should be prepared to offer support to others who they witness being harassed. The latter might include, for example:

- Refusing to join in with the harassing behaviour
- Reminding others that they have the legal right to a harassment-free work/study environment
- Telling others that, if they feel able, they can say no to the person or people who are harassing them
- Informing others that if the harassment does not cease, they will report the harassment to a Senior Resident
- Ensure that they do not victimise any person including students who make a legitimate complaint
- Ensure that they do not make false, malicious or vexatious complaints

8. Complaint Resolution

Substantiated allegations of Harassment (including any form of sexual misconduct), Bullying or unlawful Discrimination will result in disciplinary action being taken against offenders in accordance with guidelines developed by the NSW Ombudsman for universities dealing with complaints (NSW Ombudsman, 2015).



The complaint resolution procedures include various approaches or options for consideration depending on the nature and seriousness of any complaint, ranging from one-to-one resolution for minor matters, through to police investigation of potential criminal behaviour.

There is a potential need for pastoral support of both alleged victim and perpetrator. The College will ensure that both the alleged victim and perpetrator are adequately supported during the investigation. If needed, the College will be responsible for finding and providing suitable alternative secure accommodation for either an alleged victim or to remove an alleged perpetrator. In the case where a perpetrator has been charged by the Police, they will be deemed to have breached this policy and will be asked to leave the College.

Residents and staff may also seek external support either in consultation with College staff or independently.

9. Review & History

Superseded Documents		Harassment Policy (2003)		
Associated Documents		2.10 Workplace Health and Safety Policy, 2.13 Data Retention Policy		
Version	Authorised By	Sections Modified	Approval Date	Effective Date
1	The Board	All	2 April 2003	
2	The Board	1,2,4,5,6	8 November 2017	Immediately subject to approved revisions
3	The Board for public release	1,3,4,5,6,7,8,10 in response to review by J. Burke, external reviewer Sexual Harassment. Further revisions by Board Policy Committee. Minor modifications by the Board	21 February 2018	21 February 2018
4	The Board	Updated definitions and scope to include Bullying and Discrimination (5.1), updated Responses (5.2), Investigating Officers (5.3), Confidentiality (5.4), Legal Framework (6) and Responsibilities (7)	9 November 2022	9 November 2022



10. Acknowledgements

- NSW Ombudsman, 2015 'Complaint handling at universities: Best Practice Guidelines'. ISBN 978-1-925061-24-6, 1 January 2015
<https://www.ombo.nsw.gov.au/newsandpublications/publications/guidelines/universities/complaint-handling-at-universities-bestpractice-guidelines> accessed 10 August 2017)
- Safe Work Australia. 2021. 'Workplace sexual harassment – advice for workers.'
<https://www.safeworkaustralia.gov.au/doc/workplace-sexual-harassment-advice-workers>
- Safe Work Australia. May 2016. 'Dealing with workplace bullying – A worker's guide.'
<https://www.safeworkaustralia.gov.au/system/files/documents/1702/workers-guide-workplace-bullying.pdf>