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# ORMOND COLLEGE

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THE UNIVERSITY OF MELBOURNE

## Discrimination, Bullying and Victimisation Policy and Procedure

### **ABSTRACT**

In line with Recommendation 4 of the *AHRC's National Report on Sexual Assault and Sexual Harassment at Australian Universities* (2017), the Colleges engaged an independent, expert-led review of their policies and procedures that related to Sexual Harm, bullying, harassment and victimisation in October 2018. Following consultation with key staff, experts, students and residents, the previous Sexual Harm Policy and Procedure was adopted by the Heads of Residential Colleges and Halls of the University of Melbourne (**Colleges**) in February 2019. Following further consultation with students and residents, this Policy was adopted by Ormond College in April 2022.

## TABLE OF CONTENTS

1.	PURPOSE.....	3
2.	SCOPE.....	4
3.	COLLEGE'S POSITION ON PROHIBITED CONDUCT.....	4
4.	PRINCIPLES.....	5
5.	EXPECTED BEHAVIOURS .....	5
6.	BREACHES .....	6
7.	POSSIBLE OUTCOMES.....	7
8.	SUPPORT SERVICES.....	8
9.	CONFIDENTIALITY AND USE OF INFORMATION .....	9
10.	RECORD KEEPING.....	9
11.	VICTIMISATION.....	9
12.	FALSE OR MISLEADING ALLEGATIONS.....	9
13.	DISSEMINATION AND REVIEW .....	10
14.	RELATED POLICIES AND PROCEDURES.....	10
15.	RELEVANT LAWS.....	10
	APPENDIX A: DEFINITIONS.....	11
	APPENDIX B: STAFF ROLES AND RESPONSIBILITIES.....	14
	APPENDIX C: CONTACTS.....	17

## 1. PURPOSE

Ormond College is committed to providing an environment that is safe, supportive and free from Discrimination, Bullying, Victimisation and Vilification.

Discrimination, bullying, victimisation and vilification are unacceptable and strictly prohibited by Ormond College (**the College**).

The purpose of this Policy is to:

- set clear standards of behaviour for Students, Residents, Staff and Associates of the College in relation to Discrimination, Bullying, Victimisation and Vilification, and strengthen the College's safe and inclusive culture;
- outline the support available to people who experience Discrimination, Bullying, Victimisation and Vilification;
- make clear that Discrimination, Bullying, Victimisation and Vilification will not be tolerated, and have no place in the College community;
- encourage people to report Discrimination, Bullying, Victimisation and Vilification, and engage in safe bystander action;
- outline the College's commitment to preventing Discrimination, Bullying, Victimisation and Vilification; and
- describe how reports of Discrimination, Bullying, Victimisation and Vilification can be made, and how they will be managed.

### Support

If you or somebody you know are in danger or at risk of harm, please contact 000 immediately. Additional internal and external supports (including counselling or translating and interpreting support) are set out at section 8 of this Policy.

### Terminology

The College acknowledges that people who experience Discrimination, Bullying, Victimisation and Vilification may refer to themselves as a victim, survivor, victim-survivor or complainant. For simplicity, this Policy and the Discrimination, Bullying and Victimisation Procedure (**Procedure**) will refer to:

- people who make a disclosure or report of Discrimination, Bullying, Victimisation and Vilification as '**Reporters**' (who may or may not be the person who experienced the conduct);
- complaints, reports and disclosures of Discrimination, Bullying, Victimisation and Vilification as '**Reports**';
- people who are alleged to have engaged in Discrimination, Bullying, Victimisation and Vilification as '**Respondents**'.
- Discrimination, Bullying, Victimisation and Vilification as '**Prohibited Conduct**'.

Definitions for these and other key terms are set out in **Appendix A** of the Policy. All defined terms in the Policy and Procedure use title case.

## **2. SCOPE**

This Policy applies to all Students, Residents, Staff and Associates of the College in respect of Prohibited Conduct occurring:

- on all campuses and facilities of the College, including accommodation owned or operated by the College;
- through virtual environments (e.g. email, intranet systems, social media, online forums, communities and platforms);
- at any premises in which research, study or learning is undertaken as part of a College activity, including but not limited to placements, internships or field work;
- at all activities and events connected with the College (e.g. sporting events, cultural activities, competitions, conferences and Alumni activities), regardless of where the activity is held;
- whilst Students, Residents, Staff and Associates representing the College, a club affiliated with the College, or whilst on exchange or sabbatical; and
- between a College Staff Member and a Student, Resident and / or Associate of the College.

This Policy does not apply to Sexual Harm, which is covered by the Sexual Harm Policy and Sexual Harm Procedure.

Where the College receives a Report from a former Student, Resident, Staff Member or Associate of the College about Prohibited Conduct while they were at the College, the Safe Coordinator and Head of College may (at their discretion) still respond to that Report in line with the Policy and Procedure.

Where a Report relates to conduct covered by both this Policy and Sexual Harm Policy and Procedure, the Sexual Harm Policy and Procedure prevails to the extent of any inconsistency.

## **3. COLLEGE'S POSITION ON PROHIBITED CONDUCT**

The College is committed to providing a learning, living, work and social environment that is safe, supportive and free from Discrimination, Bullying, Victimisation and Vilification.

The College aims to prevent Prohibited Conduct by:

- Setting clear standards of behaviour and strengthening our culture to be safe and inclusive;
- Encouraging respectful relationships;
- Upholding the behaviours set out in the College's Conditions of Residency and College Values
- Encouraging Students, Residents, Staff and Associates to report Prohibited Conduct;
- Promoting and encouraging active bystander intervention;

- Informing and empowering Residents, Students, Staff and Associates to respond compassionately and effectively to any information they receive in relation to Prohibited Conduct;
- Providing regular education, training and communication;
- Ensuring education, training and resources meet the needs of the diverse College community and higher risk cohorts; and
- Responding swiftly and sensitively to Prohibited Conduct connected with the College.

#### 4. PRINCIPLES

The College will apply the following principles when preventing and responding to Prohibited Conduct:

- **Prioritising safety and wellbeing:** prioritising the safety and wellbeing of people who have experienced Prohibited Conduct, and offering support throughout the process;
- **Focusing on prevention:** proactively fostering a safe, equitable and respectful environment for all members of the College community to prevent Prohibited Conduct;
- **Implementing a safe process:** implementing a safe, sensitive and timely process when responding to Prohibited Conduct;
- **Empowering accountable leadership:** Leaders are accountable to the College for preventing Prohibited Conduct and must empower all members of the College community to be informed, active bystanders who uphold and champion these principles through their actions, words and decisions.
- **Building community knowledge and understanding:** taking proactive steps to educate and inform the College community of what constitutes Prohibited Conduct and reinforce the message that Prohibited Conduct will not be tolerated.
- **Sound decision-making:** making decisions that are unhindered by the status, power or influence of the parties involved and protecting and supporting those who come forward from victimisation.
- **Supporting cultural sensitivity and safety:** ensuring safety for all members of the College community by being aware of cultural differences, and by recognising and addressing cultural and linguistic barriers
- **Respecting intersectionality:** Understanding, respecting, and embracing the many aspects of a person's identity in preventing and responding to Prohibited Conduct.

#### 5. EXPECTED BEHAVIOURS

All Students, Residents, Staff and Associates must comply with the Policy, Conditions of Residency and the Values of the College, and have a responsibility to:

- Treat others with dignity, courtesy and respect at all times;

- Protect the health, safety and wellbeing and privacy of others in the College community;
- Uphold the values of the College;
- Engage in safe bystander action to prevent risks of Prohibited Conduct;
- Comply with any lawful and reasonable direction or request from College Staff Member, particularly where it supports safety, good order and compliance with this Policy;
- Respond in an empathetic and supportive manner to any person who discloses that they have experienced, witnessed or have information about Prohibited Conduct, and support the person to connect with the support services outlined at section 8.

Students, Residents, Staff and Associates must not:

- engage, attempt to engage, or threaten to engage, in any form of Prohibited Conduct;
- request, instruct, induce, encourage, authorise or assist other persons to engage in Prohibited Conduct;
- engage in behaviour that causes any person to fear for their personal safety or well-being, or could reasonably be perceived to be threatening or intimidating.

Staff Members have additional responsibilities under this Policy. The roles and responsibilities of Staff Members (including Safe Coordinators, Safe Contact Persons, Head of College), External Consultant and External Advisors are set out in **Appendix B**. The contact details for relevant Staff are contained in **Appendix C**.

## 6. BREACHES

All Students, Residents, Staff and Associates must comply with this Policy. A breach of this Policy may lead to disciplinary action outlined in section 11.

Prohibited Conduct by a person who is both Staff Member and a Resident amounts to a breach of that person's responsibilities both as a Staff Member and as a Resident.

The College may dismiss a Staff Member with notice for engaging in misconduct, and without notice for engaging in serious misconduct. Serious misconduct includes (but is not limited to):

- wilful or deliberate behaviour that is inconsistent with the continuation of the contract of employment;
- conduct that causes serious and imminent risk to the health or safety of a person, or the reputation, viability or profitability of the College; and
- the Staff member refusing to carry out a lawful and reasonable instruction that is consistent with the employee's employment.

The College is required to respond to Reports of Prohibited Conduct against Staff in a procedurally fair manner.

For the avoidance of doubt, this Policy is not incorporated into the contracts for any Students, Residents, Staff Members or Associates, and does not give rise to any right or entitlement.

## **7. POSSIBLE OUTCOMES**

The College is committed to taking action (whether disciplinary or non-disciplinary) in respect of Prohibited Conduct and / or breaches of this Policy. However, it is not possible to guarantee a particular outcome in relation to a breach of this Policy for the following reasons:

- although the College treats all possible breaches of this Policy seriously, the relevant conduct may be regarded on a scale from minor to extremely serious;
- the College may consider the views of the person who experienced the Prohibited Conduct to provide input on its proposed outcome before making a decision on the appropriate outcome;
- consultation with Students and Residents in developing this Policy found a lack of support for a “one size fits all” approach, which may have the effect of undermining the wishes of the person who experienced the harm;
- the College has unique obligations to Students, Residents, Staff and Associates, and proposed disciplinary action will need to be considered in light of those obligations.

Possible outcomes include, but are not limited to:

- Disciplinary action against the Respondent (including the termination of their employment or engagement with or without notice);
- Formal warnings (including final warnings) that are noted on the Respondent’s file;
- Restrictions on the Respondent’s participation in the Colleges’ activities (including Alumni events held off campus), and/or attendance at College;
- Suspending or terminating the Respondent’s residence, or relocating the Respondent;
- Informal counselling or education;
- Requirement to undertake formal training or development;
- A formal apology by the Respondent and/or bystanders;
- Written undertakings that the behaviour will cease;
- Conciliation/mediation conducted by an impartial third party (where requested by the person who experienced the Prohibited Conduct and both parties agree to participate);
- Reports to external authorities (e.g. police where there is an immediate or ongoing risk to the health, safety or wellbeing of any person);
- Removal from positions of responsibility; and

- Preventing further contact with Students, Residents, Staff or Associates, including the Reporter.

## 8. SUPPORT SERVICES

All members of the College community are encouraged to seek support in relation to Prohibited Conduct at the earliest opportunity.

In an emergency or where a person is in immediate danger, please contact:

- Police and emergency services (24 hours) call 000
- Ormond College Reception or Duty Managers at 03 9344 1100 or 0417 380 480

Students, Residents, Staff and Associates who have experienced or witnessed Prohibited Conduct can also access seek advice, support and assistance from:

- **Safe Coordinators and Safe Contact Persons at the College**, who can provide guidance on the options to report Prohibited Conduct, and assist Reporters and Respondents to engage with the University, the Police, medical and external counselling services as appropriate. Contact details are available at **Appendix C**.
- **University of Melbourne Counselling and Psychological Services (CAPS)**, which is available for all students, staff or associates of the University of Melbourne. For more information contact: <http://www.services.unimelb.edu.au/counsel> or phone (03) 8344 6927. CAPS is located at Level 5, 757 Swanston Street, Parkville.
- **Safer Community Program**, which provides support and advice to members of the University of Melbourne community about inappropriate, concerning or threatening behaviour. For more information contact (03) 9035 8675, or email at [safer-community@unimelb.edu.au](mailto:safer-community@unimelb.edu.au). Safer Community Program is located at 757 Swanston Street, Parkville.

For people who require a translating or interpreting service, phone 13 14 50 and ask them to connect you with the service that you need.

For people who are deaf or have a hearing or speech impairment, contact the National Relay Service:

- for TTY users/Voice Calls, phone 133 677;
- for Speak and Listen, phone 1300 555 727; or
- for SMS relay, contact 0423 677 767,



and ask them to connect you with the service you need.

## **9. CONFIDENTIALITY AND USE OF INFORMATION**

The College will respond to Reports of Prohibited Conduct in a confidential and sensitive manner, in accordance with this Policy.

The College may direct Students, Residents, Staff and Associates to maintain confidentiality while it is responding to any Report. This is important to protect the reputation of the parties, minimise the potential for victimisation, and ensure that witnesses have not had the chance to collaborate or influence each other.

A direction to maintain confidentiality will not prevent any party from seeking advice and support from a professional advisor in relation to the allegations, or reporting the matter to an external body.

## **10. RECORD KEEPING**

The College will ensure that Reports of Prohibited Conduct are collected and stored confidentially in line with this Policy, including:

- details of the incident / Report;
- steps taken to respond to the incident / Report;
- support or assistance required or provided, i.e. whether the person received counselling from university services, whether they reported to police, whether they received support from an external provider;
- the College's response to the report (including referrals to external bodies and support services); and
- any feedback provided by the Reporter / Respondent in relation to the process.

On request, the College will provide the Reporter with information on their report of Prohibited Conduct.

## **11. VICTIMISATION**

It is unlawful to victimise any person in relation to a report of Prohibited Conduct or Sexual Harm. Any retaliatory action taken or threatened against a Staff Member, Resident, Student or Associate because of their involvement or suspected involvement in a report of Prohibited Conduct or Sexual Harm may result in disciplinary action. Retaliation includes (but is not limited to) threatening, intimidating, harassing, or isolating a person, or any other detrimental conduct that interferes with an investigation.

## **12. FALSE OR MISLEADING ALLEGATIONS**

Deliberately making a false Report under this Policy is a serious matter and is unacceptable. Where a College is satisfied, based on reasonable evidence, that a Report is malicious, frivolous or vexatious, the Reporter may face disciplinary action.

A Reporter will not be sanctioned just because an investigation is inconclusive and the allegations cannot be substantiated. Disciplinary action will only arise when the College is satisfied that the report was false or misleading.

### 13. DISSEMINATION AND REVIEW

This Policy will be disseminated to all Students, Residents, Staff and Associates through email, posters, induction, The Grail. This Policy will be reviewed every two years (or more frequently, if required) by the Head of College.

### 14. RELATED POLICIES AND PROCEDURES

This Policy should be read in conjunction with:

- The College's Discrimination, Bullying and Victimization Procedure;
- The College's Sexual Harm Policy and Procedure;
- The College's Conditions of Residence and
- Melbourne University's:
  - 'Sexual Misconduct Prevention and Response Policy' (MPF1359) (<https://policy.unimelb.edu.au/MPF1359>);
  - 'Appropriate Workplace Behaviour Policy' (<https://policy.unimelb.edu.au/MPF1328>);
  - 'Student Conduct Policy' (<https://policy.unimelb.edu.au/MPF1324>);
  - 'Child Safety Policy' (<https://policy.unimelb.edu.au/MPF1337>)

### 15. RELEVANT LAWS

This Policy supports compliance with the following legislation as amended:

- *Age Discrimination Act*
- *Australian Human Rights Commission Act 1986* (Cth)
- *Crimes Act 1958* (Vic)
- *Disability Discrimination Act 1992* (Cth)
- *Equal Opportunity Act 2010* (Vic)
- *Fair Work Act 2009* (Cth)
- *Occupational Health and Safety Act 2004* (Vic)
- *Occupational Health and Safety Regulations 2007* (Vic)
- *Racial Discrimination Act 1974* (Cth)
- *Racial and Religious Tolerance Act 2001* (Vic)
- *Sex Discrimination Act 1984* (Cth)

## APPENDIX A: DEFINITIONS

<b>Associate</b>	Associate means contractors, consultants, volunteers, visiting appointees and visitors at the College (not including conference guests).
<b>Attribute</b>	<p>Means an attribute protected under relevant state or federal laws, including:</p> <ul style="list-style-type: none"> <li>• age;</li> <li>• breastfeeding;</li> <li>• employment activity;</li> <li>• gender identity;</li> <li>• intersex status;</li> <li>• disability;</li> <li>• industrial activity;</li> <li>• lawful sexual activity;</li> <li>• marital status;</li> <li>• parental status or status as a carer;</li> <li>• physical features;</li> <li>• political belief or activity;</li> <li>• pregnancy;</li> <li>• race;</li> <li>• religious belief or activity;</li> <li>• sex (i.e. gender);</li> <li>• sexual orientation;</li> <li>• an expunged homosexual conviction;</li> </ul> <p>personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above Attributes.</p>
<b>Bullying</b>	<p>Repeated, Unreasonable Behaviour to a person or group of people that creates a risk to health and safety.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• aggressive or intimidating conduct or behaviour;</li> <li>• belittling or humiliating comments;</li> <li>• spreading rude, inaccurate or malicious rumours;</li> <li>• teasing, practical jokes;</li> <li>• making vexatious allegations against a worker;</li> <li>• conducting an investigation in a grossly unfair manner;</li> <li>• Victimisation;</li> <li>• practical jokes or initiation;</li> <li>• pressuring someone to behave inappropriately;</li> <li>• exclusion from College events;</li> <li>• unreasonable work expectations and deadlines; and</li> <li>• unreasonably undermining a person.</li> </ul> <p>Reasonable management action undertaken in a reasonable manner towards an employee is not Bullying.</p> <p>The following behaviour <u>does not</u> constitute Bullying:</p> <ul style="list-style-type: none"> <li>• reasonable comment, advice or administrative action (including negative feedback) from an academic or administrative Staff Member on work, academic performance or behaviour;</li> <li>• reasonable management action;</li> <li>• reasonable disciplinary action;</li> </ul>

	<ul style="list-style-type: none"> <li>• the implementation of organisational change;</li> <li>• the allocation of work in compliance with systems;</li> <li>• conflict or differences of opinion between individuals;</li> <li>• a single incident of Bullying-style behaviour.</li> </ul>
<b>Direct Discrimination</b>	<p>Direct Discrimination occurs if a person treats, or proposes to treat, a person with an Attribute unfavourably because of that Attribute.</p> <p>Example:</p> <ul style="list-style-type: none"> <li>• Refusing to employ or offer residence to a person because of their disability.</li> </ul>
<b>Discrimination</b>	<p>It is unlawful to engage in Direct or Indirect Discrimination on the basis of an Attribute in an area of public life. It includes:</p> <ul style="list-style-type: none"> <li>• discriminatory harassment;</li> <li>• the failure to provide Reasonable Adjustments a person with a disability;</li> <li>• the failure to reasonably accommodate a person's responsibilities as a parent or carer.</li> </ul> <p>Motive and intention are irrelevant in determining whether Discrimination has occurred.</p> <p>Discrimination may be unlawful when it occurs in the following areas of public life:</p> <ul style="list-style-type: none"> <li>• employment and employment-related areas;</li> <li>• education;</li> <li>• accommodation;</li> <li>• in the provision of goods and services;</li> <li>• sport;</li> <li>• local government; and</li> <li>• by clubs and club members.</li> </ul>
<b>Independent Investigator</b>	Independent Investigator means a third party who is external to the College and is experienced in carrying out investigations.
<b>Indirect Discrimination</b>	<p>Where a person imposes, or proposes to impose, a requirement, condition or practice – that has, or is likely to have, the effect of disadvantaging persons with an Attribute, and that is not reasonable.</p> <p>It occurs when a rule, practice or policy appears to be neutral, but has a disproportionate impact on a particular group of people with a particular Attribute.</p>
<b>Procedure</b>	The procedure outlined in this Policy and any accompanying guidelines that are applied by a College in relation to a Report.
<b>Prohibited Conduct</b>	Discrimination, Bullying, Victimization and Vilification prohibited under this Policy.
<b>Reasonable adjustment</b>	<p>A reasonable measure or action that must be taken by a College to help a Student, Resident or Employee with a disability:</p> <ul style="list-style-type: none"> <li>• participate in education;</li> <li>• take part in a recruitment process; or</li> <li>• perform the genuine and reasonable requirements of a job;</li> </ul> <p>and that does not impose an unjustifiable hardship on the College.</p>
<b>Report</b>	A report of Prohibited Conduct made to a College by a Student, Resident, Staff Member or Associate.
<b>Reporter</b>	A Student, Resident, Staff member or Associate of the College who makes a disclosure, complaint or report of Prohibited Conduct to the College, who may or may not be the person who experienced the Prohibited Conduct.
<b>Resident</b>	A Resident of a College to which this Policy applies.
<b>Respondent</b>	A person against whom allegations of Prohibited Conduct are made.
<b>Sexual Harm</b>	Behaviour covered by the Sexual Harm Policy and Procedure, including sexual harassment, sexual assault (including rape, unwanted oral sex and stealthing), sexual

	<p>exploitation, Criminal Behaviour of a sexual nature, image-based sexual abuse stalking, drink spiking, any other Criminal Behaviour of a sexual nature and any other conduct of a sexual nature without consent.</p> <p>All forms of Sexual Harm constitute a breach of the Sexual Harm Policy and Procedure.</p>
<b>Staff or Staff Member</b>	An employee of the College.
<b>Student</b>	A current Student of a College.
<b>Support Person</b>	An observer who does not actively participate in any aspect of the investigation or hearing of a complaint beyond providing support to the relevant person and acting as an independent observer. The support person does not advocate on behalf of the Reporter or Respondent or play an active role in representing and advancing the views and positions of the Reporter or Respondent.
<b>University</b>	The University of Melbourne.
<b>Unreasonable Behaviour</b>	<p>Behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine, threaten, or intimidate another person.</p> <p>Examples include but are not limited to:</p> <ul style="list-style-type: none"> <li>• aggressive or intimidating conduct or behaviour;</li> <li>• belittling or humiliating comments;</li> <li>• spreading rude, inaccurate or malicious rumours;</li> <li>• teasing, practical jokes;</li> <li>• making vexatious allegations against a worker;</li> <li>• conducting an investigation in a grossly unfair manner;</li> <li>• Victimisation;</li> <li>• practical jokes or initiation;</li> <li>• pressuring someone to behave inappropriately;</li> <li>• exclusion from College events;</li> <li>• unreasonable work expectations and deadlines; and</li> <li>• unreasonably undermining a person.</li> </ul>
<b>Victimisation</b>	<p>Subjecting (or threatening to subject) another person to a detriment (which can include threats, intimidation, harassment, humiliation, coercion and denigration) because that other person has:</p> <ul style="list-style-type: none"> <li>• made a complaint or Report of Prohibited Conduct or Sexual Harm;</li> <li>• been involved in a complaints process in relation to Prohibited Conduct or Sexual Harm (including the relevant Procedure), or</li> <li>• because the first person thinks the other person intends to make a complaint or Report be involved in a complaints process in relation to Prohibited Conduct or Sexual Harm (including the relevant Procedure).</li> </ul> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Resident sending rude or aggressive notes to another Resident and their friends because that person has made a complaint or Report of discrimination and harassment; and</li> <li>• A supervisor humiliating a Staff Member because that Staff Member gave evidence in support of a colleague in relation to a complaint or Report against the supervisor.</li> </ul> <p>Victimisation is unlawful and will be treated as a breach of this Policy.</p>
<b>Vilification</b>	<p>Conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of another person or class of person on the grounds of their race or religion.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• publishing claims that a racial or religious group is involved in serious crimes</li> </ul>

	<p>without any proof;</p> <ul style="list-style-type: none"> <li>repeated and serious verbal or physical abuse about the race or religion of another person; or</li> <li>encouraging people to hate a racial or religious group using flyers, stickers, posters, speech or publication, or using websites or email.</li> </ul> <p>Vilification is unlawful and will be treated as a breach of this Policy.</p>
<b>Visitor</b>	A visitor to the Colleges' premises or official College event.

## APPENDIX B: STAFF ROLES AND RESPONSIBILITIES

In addition to the expected behaviours in section 5, Staff Members of the College have the following roles and responsibilities.

### All Staff

All Staff have a responsibility to:

- monitor Residents, Students, Staff and Associates / the working, living and social environment at the College to ensure that expected behaviours set out in this Policy and the Code of Conduct are maintained at all times;
- promote the Policy and Procedure within their work area and the College community;
- take prompt action if they observe or are informed about behaviour that may breach this Policy, by reiterating that any behaviour in breach of this Policy is unacceptable, may result in disciplinary action, and must immediately cease,
- notify the Safe Coordinator and/or Head of College of any concerns of non-compliance with this Policy and Procedure;
- support Students, Residents, Staff and Associates to report their concerns of Prohibited Conduct;
- refer persons with concerns about Prohibited Conduct to a Safe Coordinator or Safe Contact Person for support, information and advice (as appropriate), and inform the Safe Coordinator that they have done so;
- model appropriate behaviour and lead by example;
- ensure that relationships with Students, Staff, Residents and Associates are professional, trusting and respectful;
- be mindful at all times of the power imbalance that exists between Staff and Students / Residents;
- take all reasonable steps to avoid and resolve any possible, perceived or actual conflicts of interest in dealing with Students and Residents;
- pay proper regard to protecting the welfare and wellbeing of Students and Residents.

Staff and Associates must not initiate, cultivate or encourage relationships with students or Residents that have the potential to compromise the welfare or wellbeing of the Student or Resident.

## **Head of College**

The Head of College is responsible for:

- considering the wishes of the person who experienced the Prohibited Conduct by involving them in decisions about the College's response to their Report;
- balancing the needs and wishes of a Reporter against the obligation to provide a safe environment for all Students, Residents, Staff and Associates;
- ensuring that Staff are appropriately trained and know how to respond to reports of Prohibited Conduct;
- nominating representatives to relevant committees (i.e. the wider Deans and Deputy Respect and Culture Sub-Committee) to develop an action plan to better protect Students, Residents, Staff and Associates from the behaviour prohibited by this Policy.

## **Safe Coordinators**

Safe Coordinators are experienced Staff Members appointed by each College to support the College's response to Prohibited Conduct and Sexual Harm. Safe Coordinators are responsible for:

- considering the wishes of the person who experienced the Prohibited Conduct by involving them in decisions about the College's response to their Report;
- balancing the needs and wishes of a person who experienced the Prohibited Conduct against the obligation to provide a safe environment for all Students, Residents, Staff and Associates;
- managing the Report and investigation process;
- ensuring that the College provides ongoing support and guidance to Reporters and Respondents;
- ensuring the appropriate and timely appointment of Safe Contact Persons and External Advisers;
- providing training for their College community, Safe Contact Persons on preventing and responding to Prohibited Conduct; and
- advising their College on policies, programs, initiatives and strategies recommended to enhance legislative compliance and promote student and Staff access, equity and diversity.

## **Safe Contact Persons**

Each College recruits, trains, and supports experienced Staff Members (both academic and administrative) to become Safe Contact Persons, and if required, suitable tutors to the role of Safe Contact Persons.

Safe Contact Persons are responsible for:

- providing information and advice to Students, Residents, Staff and Associates in relation to Prohibited Conduct and Sexual Harm and their options for making complaints and reports;

- providing support to Reporters of Prohibited Conduct, as well as Respondents to allegations of Prohibited Conduct;
- being involved in the procedure for responding to Reports of Prohibited Conduct as directed by the Safe Coordinator.

### **External Consultant**

The External Consultant, appointed by the College Head, assists the College to implement the Policy by:

- preparing educational materials, organising and conducting training programs;
- assisting the Safe Coordinators, Safe Contact Persons, External Advisers and Conciliators and College Head to effectively respond to Reports of Prohibited Conduct and Sexual Harm; and
- making recommendations on policies, programs initiatives and strategies to enhance legislative compliance and promote student and Staff access, equity and diversity.



## APPENDIX C: CONTACTS

### SAFE

**S**exual Harm Prevention

**A**dvice and Advocacy

**F**air Treatment

**E**quality and Equity

#### SAFE COORDINATOR

- Kristen Doran-Stawiarski, [kdoran-stawiarski@ormond.unimelb.edu.au](mailto:kdoran-stawiarski@ormond.unimelb.edu.au)

#### INTERNAL SAFE CONTACT PERSONS

- Francesca Aleandri, [faleandri@ormond.unimelb.edu.au](mailto:faleandri@ormond.unimelb.edu.au)
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ORMOND COLLEGE

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THE UNIVERSITY OF MELBOURNE

Discrimination, Bullying  
and Victimisation  
Procedure

## TABLE OF CONTENTS

<b>1.</b>	<b>OVERVIEW .....</b>	<b>20</b>
<b>2.</b>	<b>REPORTING TO THE COLLEGE .....</b>	<b>20</b>
<b>3.</b>	<b>ANONYMOUS REPORTING.....</b>	<b>21</b>
<b>4.</b>	<b>REPORTING TO AN EXTERNAL BODY.....</b>	<b>21</b>
<b>5.</b>	<b>RESPONDING TO REPORTS OF PROHIBITED CONDUCT.....</b>	<b>22</b>
<b>5.1</b>	<b>Reports involving multiple Colleges.....</b>	<b>22</b>
<b>5.2</b>	<b>Reports about the Safe Coordinator or Head of College.....</b>	<b>22</b>
<b>5.3</b>	<b>Precautionary measures .....</b>	<b>22</b>
<b>5.4</b>	<b>Immediate steps to support the parties .....</b>	<b>22</b>
<b>5.5</b>	<b>Considerations when responding to Prohibited Conduct.....</b>	<b>23</b>
<b>5.6</b>	<b>Addressing concerns with the Respondent.....</b>	<b>23</b>
<b>5.7</b>	<b>Show Cause Process .....</b>	<b>24</b>
<b>5.8</b>	<b>Investigations .....</b>	<b>24</b>
<b>5.9</b>	<b>Mediation.....</b>	<b>25</b>
<b>5.10</b>	<b>Withdrawn Reports.....</b>	<b>25</b>
<b>5.11</b>	<b>Possible Outcomes .....</b>	<b>26</b>
<b>5.12</b>	<b>Procedural Fairness .....</b>	<b>26</b>

## 1. OVERVIEW

This Procedure sets out the way that Students, Residents, Staff and Associates can make a Report about Discrimination, Bullying, Victimisation and Vilification to the College, and how the College will respond.

The Procedure must be read in line with the Discrimination, Bullying and Victimisation Policy (**Policy**).

For simplicity, this Procedure will refer to:

- people who make a disclosure or report of Discrimination, Bullying, Victimisation and Vilification as '**Reporters**' (who may or may not be the person who experienced the conduct);
- complaints, reports and disclosures of Discrimination, Bullying, Victimisation and Vilification as '**Reports**';
- people who are alleged to have engaged in Discrimination, Bullying, Victimisation and Vilification as '**Respondents**'.
- Discrimination, Bullying, Victimisation and Vilification as '**Prohibited Conduct**'.

Definitions for these and other key terms are set out in **Appendix A** of the Policy. All defined terms in the Policy and Procedure use title case.

Reports of Prohibited can be made to the College or an external body. Reporters may make a report or complaint through whichever channel they choose.

The College aims to respond to Reports and resolve concerns as quickly as possible.

The College recognises that the conduct of a Student, Resident, Staff Member or Associate may be regarded on a scale from minor to extremely serious. For that reason, the processes to be applied in determining whether a breach has occurred, and the consequences of a breach, are matters for the discretion of the College.

The Safe Coordinator will take steps to ensure that ongoing support is provided to the person who experienced the Prohibited Conduct (and any other affected parties), and that they are regularly consulted and informed about the College's response.

Reports of Prohibited Conduct can be made to the College or an external body. Reporters may make a report or complaint through whichever channel they choose.

## 2. REPORTING TO THE COLLEGE

Students, Residents, Staff and Associates are encouraged to notify the College of Prohibited Conduct as soon as possible so that the College can:

- provide support and pastoral care; and
- take steps to prevent risks to the health, safety or wellbeing of any person at the College.

Reports of Prohibited Conduct may be made verbally or in writing to a Safe Coordinator, who has received training to respond to Prohibited Conduct. If the Reporter does not feel

comfortable speaking with the Safe Coordinator for any reason, they may raise their concern with the Head of College [or in the case of Staff, with Human Resources].

There is no time limit for a person to report Prohibited Conduct to the College under this Policy. However, a College's ability to effectively respond to and prevent Prohibited Conduct may diminish over time.

### **3. ANONYMOUS REPORTING**

The College has implemented an anonymous reporting framework to enable Students, Residents, Staff and Associates to make an anonymous report of Prohibited Conduct covered by this Policy.

The College collates and analyses data on anonymous reports to monitor the prevalence of Prohibited Conduct in connection with the Colleges.

Because reports are anonymous, the College will rarely be able to take action in relation to an anonymous report. If you would like action to be taken in relation to an incident of Prohibited Conduct, you are encouraged to report the incident to the College, the University, or an External Body.

### **4. REPORTING TO AN EXTERNAL BODY**

Students, Residents, Staff and Associates may seek independent guidance from and/or lodge a complaint about Prohibited Conduct with an external body at any time. Safe Coordinators can provide you with information on the most appropriate body to lodge your complaint with.

Students, Residents, Staff and Associates can make complaints of discrimination in areas such as employment, accommodation, goods and services or sport, as well as complaints of vilification, to the:

- Victorian Equal Opportunity and Human Rights Commission: <https://www.humanrights.vic.gov.au> Phone: 1300 292 153.
- Australian Human Rights Commission: <https://humanrights.gov.au/> . Phone: (02) 9284 9600.

Staff and contractors can also make complaints to:

- Fair Work Commission: <https://www.fwc.gov.au/>. Phone: 1300 799 675.
- WorkSafe Victoria: [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au). Phone: (03) 9641 1444 or 1800 136 089.

Reports of Criminal Behaviour may be made by any person to:

- Victoria Police: Melbourne North Police Station (open 24 hours), 36 Wreckyn Street, North Melbourne. Phone: (03) 8379 0800.

Students and Staff Members of the University may also lodge a complaint under the University's policies and procedures if their concern relates to another student or Staff Member of the University.

If a Student, Resident, Staff Member or Associate pursues a complaint with an external body, it may be appropriate for the College to temporarily suspend its complaints process. However, the College may still take steps to address and prevent Prohibited Conduct.

## **5. RESPONDING TO REPORTS OF PROHIBITED CONDUCT**

### **5.1 Reports involving multiple Colleges**

Where a report involves a Student, Resident, Staff or Associate from more than one College, the Safe Coordinator and/or Head of each College will confer to determine the best process to respond to the Report. Generally, the College with the greatest degree of connection to the allegations will take responsibility for managing the Report.

The Colleges may seek advice about the handling of the complaint from the External Consultant.

### **5.2 Reports about the Safe Coordinator or Head of College**

Where a Report concerns the Safe Coordinator, the Head of College will act as the Safe Coordinator for the purpose of the Policy and Procedure and assume the role and responsibilities of the Safe Coordinator.

Where the Report concerns the Head of College, the Chair of the College Council (or other nominated Council Member) will act as Safe Coordinator for the purpose of the Policy and Procedure and assume the role and responsibilities of the Safe Coordinator.

The Safe Coordinator will not deal with complaints about their own behaviour or the Head of College.

### **5.3 Precautionary measures**

The College may put in place temporary or permanent precautionary measures in response to an anticipated incident or Report of Prohibited Conduct to protect the health, wellbeing and safety of all Residents, Students, Staff and Associates.

The Safe Coordinator will consult with the Head of College or their delegate about precautionary measures. Precautionary measures may include (but are not limited to):

- restricting the Respondent's access to the Colleges' premises or property;
- suspending a person from the College or from specified activities or events;
- relocating the Respondent (or the Reporter on their request) to minimise interactions between the parties.

Precautionary measures are not a penalty or sanction, and do not indicate that the College has concluded that a breach of the Conditions of Residency or College Values has occurred.

### **5.4 Immediate steps to support the parties**

The College may take immediate steps to support and protect the Reporter and other relevant parties in relation to Prohibited Conduct. This may include:

- providing referrals to medical or support services;
- reporting the matter to the police where there is a serious or ongoing risk to the health, safety or wellbeing of any person;
- providing Staff Members with access to the Employee Assistance Program;

- assisting the Reporter to apply for Special Consideration with the University of Melbourne.

## **5.5 Considerations when responding to Prohibited Conduct**

In considering how to respond to a Report made to the College, the College will consider:

- the needs and wishes of the person who has experienced the Prohibited Conduct;
- the seriousness of the alleged conduct, and the College's obligations, including in relation to occupational health and safety, its duty of care, and to Staff under the *Fair Work Act 2009* (Cth);
- whether there is a risk to the health or safety of the person who experienced the Prohibited Conduct, or any other person;
- whether the Report relates to a person under the age of 18;
- what investigative or other actions, if any, are available to the College;
- whether two or more people name the same Respondent in separate Reports or the College is concerned the Report may suggest a pattern of behaviour by the Respondent;
- any relevant processes or sanctions that are available to the College under the terms of any contract between the Respondent and the College; and
- procedural fairness to the Respondent.

None of these factors are determinative.

## **5.6 Addressing concerns with the Respondent**

Having regard to the factors in section 5.5 above, it may be appropriate for the College to advise the Respondent of the concerns raised about their conduct.

This process may be appropriate where:

- the Reports of Prohibited Conduct are of a general nature;
- the Reporter / person who experienced the Prohibited Conduct does not wish to participate in any processes proposed by the College to address the behaviour in a timely manner;
- the College is satisfied that the conduct should be addressed to prevent further harm.

Where the College considers that it is appropriate to discuss the concerns of Prohibited Conduct directly with the Respondent, it will:

- take reasonable steps to notify the Reporter of their proposal to do so, and the likely timing of that communication; and

- de-identify concerns that will be communicated to the Respondent (where consent has not been provided to reveal the identity of the Reporter / person who experienced the Prohibited);
- remind the Respondent of their obligations not to engage in Prohibited and / or breach the Policy, and the consequences of doing so in future;
- encourage the Respondent to reflect on their behaviour;
- consider whether another restorative process may be appropriate (which may include an apology from the Respondent to the Reporter), provided that the College has consulted with the Reporter and is satisfied that it will not cause further harm to the Reporter.

### **5.7 Show Cause Process**

Without limiting the options available to respond to concerns of Prohibited Conduct, the College may put allegations of Prohibited Conduct to a Respondent as part of a “show cause” or disciplinary process.

As part of that process, the College should provide the Respondent with details of the allegations, and invite the Respondent to respond to the concerns and explain why the College should not take disciplinary action against them. Where the Reporter has not consented to their identity being revealed, the College should de-identify the allegations to the greatest extent possible.

The College will then consider whether it should take any action against the Respondent (see sections 6 and 7 of the Policy, and section 6 of the Procedure).

### **5.8 Investigations**

The College has the discretion to conduct an investigation to a Report of Prohibited Conduct. An investigation involves collecting information about the allegations and assessing whether the alleged conduct occurred on the balance of probabilities.

A person can request that the College investigate Prohibited Conduct verbally or in writing to the Safe Coordinator or Head of College. The request should include details of the incident(s) and any supporting information where possible.

The person who has experienced the Prohibited Conduct will generally influence the process that will be followed. In some circumstances, the seriousness of the allegations may mean that it is necessary for the College to investigate the allegations (e.g. to prevent serious or imminent risks to health, safety or wellbeing), irrespective of the wishes of the person who experienced the harm. For this reason, the College may initiate or progress an investigation without the involvement of the person who experienced Prohibited Conduct. This may involve de-identifying details of the Reporter where it is possible to do so.

If the Safe Coordinator or Head of College considers that an investigation is appropriate, they may conduct an investigation internally or appoint an independent investigator, at their discretion. External investigations will require approval of the Head of College or their delegate.

The investigation will be conducted in a manner that the Safe Coordinator and/or Head of College (or their delegate) considers appropriate. Further to section 5.3, if a College considers it appropriate for the safe and efficient conduct of an investigation, it may:



- direct a person not to carry out their duties or attend certain areas (including College events); and/or
- provide alternative duties, tasks or accommodation to a Respondent (or to the person who experienced the Sexual Harm on their request).

On completion of an investigation, the College will notify the Reporter and Respondent of the outcome in writing (which will generally involve confirming whether the allegations were proven). The College will not provide any party with access to or a copy of any investigation report or witness statements.

The College will then consider whether it should take any action against the Respondent (see sections 6 and 7 of the Policy, and section 6 of the Procedure).

## **5.9 Mediation**

To facilitate effective mediation, the person who experienced the Prohibited Conduct must be willing to be identified to the Respondent and both parties must agree to attend mediation voluntarily.

Mediation is conducted without prejudice to any other actions relating to or that might arise from the allegation or Report.

If the Safe Coordinator [or Head of College] considers that mediation is appropriate, it will invite the person who experienced the conduct and the Respondent to participate in mediation. Where appropriate, witnesses or bystanders may also be invited to the mediation.

The Safe Coordinator or Head of College may appoint an independent external mediator where appropriate. The Respondent will be provided with details of the concerns or allegations, but will not be provided with any Report. All parties will be provided with the opportunity to seek support from a Safe Contact Person.

The mediator will invite the person who experienced the Prohibited Conduct and the Respondent to meet with the mediator either together or separately or both. The role of the mediator is to assist the parties to reach a mutually agreed resolution. It is not the role of the mediator to make a formal finding. The mediator will advise the Safe Coordinator of the outcome of the mediation.

The parties may both have a support person attend the mediation, but may not have a legal representative or advocate.

If the concerns are not resolved through mediation, the Safe Coordinator

- will ensure that the parties are offered support;
- will explore alternatives to respond to the Report;
- may refer the parties to their respective Safe Contact Persons to discuss further options.

## **5.10 Withdrawn Reports**

Where a Reporter withdraws their Report or does not wish to participate in any other process in relation to the Report, the College:

- will retain the details of the Report in accordance with section 10 of the Policy;

- notify the Reporter of any proposed action against the alleged Respondent;
- offer the Reporter ongoing support; and
- confirm the above in writing to the Reporter.

A Reporter who has withdrawn their Report may ask the College to reinstate the Report at any time.

### **5.11 Possible Outcomes**

The College may take action (whether disciplinary or non-disciplinary) in respect of Prohibited Conduct and / or breaches of this Policy, Procedure, Conditions of Residency and breaches of College Values.

Relevant considerations and possible outcomes are outlined in sections 6 and 7 of the Policy.

Where the Respondent is a member of Staff, the College may consider it appropriate to undertake a show cause process or investigation into the allegations of Prohibited Conduct before taking disciplinary action. The College may seek independent advice from the External Advisor on its proposed response to the Reports about Staff Members before proceeding.

### **5.12 Procedural Fairness**

The College is required to provide Staff with procedural fairness. The principles of procedural fairness apply to the Procedure. Generally, this means that the College will not make a decision that could adversely affect a person unless it has given that party an opportunity to respond.