



SEXUAL ASSAULT AND SEXUAL HARASSMENT (SASH) POLICY

Purpose

This policy affirms AIB's commitment to:

- proactively ensure a safe environment for students and staff.
- having zero tolerance of Sexual Assault and Sexual Harassment and acknowledging that such behaviours constitute misconduct.
- prioritise the safety and wellbeing of persons who disclose or formally report a Sexual Assault or Sexual Harassment incident.
- respond compassionately and appropriately to Disclosures and formal reports of Sexual Assault and Sexual Harassment.

In the prevention of and response to Sexual Assault and Sexual Harassment, AIB is guided by principles of compassion, provision of support and assistance, protection of confidentiality and privacy, and natural justice.

Scope

This policy applies to all AIB Staff, students, and other stakeholders whether they be an individual, group or organisation when they engage in, or seek to engage in, employment, study or AIB-related activities on-campus, at AIB events, in the online environment or other locations where AIB activities are undertaken.

For incidents that occur outside the above-specified scope, AIB may be constrained in imposing sanctions such as those that occur in other locations and/or committed by persons other than AIB Staff, students, or stakeholders. Regardless, where any incident is reported to AIB, access to support services will be made available and as appropriate, special considerations may be made.

Definitions

Unless otherwise defined in this document, all capitalised terms are defined in the [glossary](#).

Sexual Assault

Sexual Assault includes a range of behaviours, all of which are unacceptable and constitute a crime. Sexual Assault occurs when a person is forced, coerced or tricked into sexual acts against their will or without their [Consent](#), including when they have withdrawn their [Consent](#) (Australian Human Rights Commission).

Further, and in accordance with the SA — Criminal Law Consolidation Act, a person's Consent to an act is not freely and voluntarily given if it is obtained:

- by force; or

- by threat or intimidation; or
- by fear of bodily harm; or
- by the exercise of authority; or
- by false and fraudulent representations about the nature or purpose of the act; or
- by a mistaken belief induced by the accused person that the accused person was the person's sexual partner.

Examples of Sexual Assault may include (but are not limited)¹ to:

- sexual activity where a person is unable to grant or is restricted in granting Consent, such as incapacity caused by intoxication or a drug-induced state.
- sexual activity that is manipulated or where a position of power is misused, such as a student is engaged in sexual acts in exchange for better marks.
- forced and aggressive sexual behaviour, such as a person forcibly touching another person.
- two people commence sexual activity, but Person A changes their mind and asks to stop. Person B refuses to stop and forces sexual activity.

Sexual Harassment

Sexual Harassment, as defined in Section 28A of the Sex Discrimination Act 1984, is considered to be sexual behaviour that may offend, humiliate or intimate a person, and may include:

- an unwelcome sexual advance, or an unwelcome request for sexual favours;
- unwelcome conduct of a sexual nature.

Examples of Sexual Harassment include (but are not limited to):

- sending sexually explicit emails, SMS messages;
- inappropriate advances on social networking sites;
- sexual insults or taunting;
- requests for sex or repeated unwanted requests to go out on dates;
- making promises or threats in return for sexual favours;
- intrusive questions or remarks about a person's sexual activities;
- unwelcomed touching;
- displaying pornographic or sexually explicit material (such as posters and screen savers).

Sexual Harassment is not behaviour which is based on mutual attraction, friendship, and respect. If the interaction is consensual, welcomed, and reciprocated, it is not Sexual Harassment.

Harassment on the ground of sex

The Sex Discrimination Act 1984 has been amended to also prohibit Harassment on the ground of sex, which may also be to as 'Sex-based Harassment'. It is defined in the Act as unwelcome conduct of a seriously demeaning nature related to a person's sex (or a characteristic that appertains generally or is generally imputed to that person's sex) and where a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

(This definition is from p11, Respect@Work Guide, and is a paraphrased version of Section 28AA of the Act)

Examples of Sex-based Harassment include (but are not limited to):

- asking intrusive personal questions based on a person's sex;

¹ TEQSA presentation, which referenced University of Tasmania (UTAS).

- Making inappropriate comments and jokes to a person based on their sex;
- Displaying images or materials that are sexist, misogynistic or misandrist;
- Making sexist, misogynistic or misandrist remarks about a specific person; and
- Requesting a person to engage in degrading conduct based on their sex.

For the purposes of this policy and associated procedure, references to Sexual Harassment include Sex-based harassment.

Consent

Consent, as defined in section 46 of the Criminal Law Consolidation Act 1935 (SA) (“CLCA”) means freely and voluntarily agreeing to sexual activity. It also means taking responsibility for ensuring the other person is comfortable and agrees to engage in sexual activity. Some examples of where Consent is not granted is when:

- the activity occurs when a person is asleep, unconscious, intoxicated or otherwise not able to grant Consent; or,
- a person agrees to the activity under mistaken belief of the identity of the person involved, or because of threat of violence, humiliation, harassment, or other force applied; or
- having previously agreed to sexual activity, a person expresses by word or conduct that they no longer wish to participate in the sexual activity; or
- the person has mistaken or is unable to understand the nature of the activity; or,
- the person was unlawfully detained at the time of the activity.

Disclosure

A Disclosure involves the sharing of information about an incident with another person. Disclosures can be made to anyone, but usually to someone known and trusted. Disclosures do not necessarily involve Formal Reporting of the incident but usually seek information and support (UA Guidelines 2018, p.12).

Formal Reporting

Formal Reporting is where a formal account or statement is made, and where the person and/or institution has authority to take action. Reporting may result from a Disclosure but is not the only possible outcome (UA Guidelines 2018, p.12).

First Responder

An AIB Staff member who, as part of their general duties, may provide support and information to anyone who has been subjected to Sexual Assault or Sexual Harassment. Where another member of staff has received a report of Sexual Assault or Sexual Harassment and is not a First Responder, they will provide support and assistance for the reporter to liaise with a First Responder.

Policy

1. AIB acknowledges that:

- 1.1. Sexual Assault and Sexual Harassment are unlawful and also unacceptable behaviours at AIB and will be regarded as misconduct regardless of where it occurs: on-campus, online, or within a written context.
- 1.2. People who experience Sexual Assault can report their experience directly to the police.

- 1.3. Victimising conduct (such as threatening or subjecting a person to detriment for taking action such as lodging a complaint) can form the basis of civil action for unlawful discrimination (in addition to a criminal complaint) under the Sex Discrimination Act.

2. AIB is committed to:

- 2.1. Proactively ensuring a safe environment for the wellbeing and safety of its staff, students, and other stakeholders, and where all people are treated with dignity, courtesy and respect.
- 2.2. The provision of and guidance in navigating accessible, comprehensive, and clear information for both prevention of and response to Sexual Assault and Sexual Harassment incidents, including:
 - (a) Relevant policy and associate policies made available on the AIB website and staff intranet;
 - (b) During Student orientation and staff induction processes;
 - (c) Through Sexual Assault and Sexual Harassment First Responder staff training;
 - (d) AIB's Formal Reporting and misconduct investigation processes;
 - (e) contact details for internal and external support persons and services such as counselling and interpreter services;
 - (f) AIB's special consideration processes as appropriate, such as extensions for academic assessments or adjustments to workload or workplace arrangements for staff.
- 2.3. Protecting the wellbeing and safety of victims/survivors of Sexual Assault and Sexual Harassment and also the wellbeing and safety of persons who disclose or report Sexual Assault and Sexual Harassment incidents, including victims or those who disclose on behalf of a victim.
- 2.4. Prompt and appropriate response to Sexual Assault and Sexual Harassment incidents, including:
 - (a) accessible and timely support for all parties involved with Sexual Assault and Sexual Harassment incidents such as appropriate emergency health and counselling services.
 - (b) minimising the number of times, a person needs to recount a traumatic experience.
 - (c) respect for a victim's choice on whether to report an incident to police unless AIB has concerns for the wellbeing and safety of the victim and/or other persons.
 - (d) the protection and privacy of a person who discloses or formally reports Sexual Assault or Sexual Harassment, but not withstanding.
 - (e) legal obligations to report incidents to internal key personnel or external authorities such as the police where such reporting is critical for protection of a person or persons.
- 2.5. The training of staff so that they can appropriately and compassionately respond to Disclosures of Sexual Assault and Sexual Harassment.
- 2.6. Ensuring staff who receive and manage Formal Reporting of Sexual Assault and Sexual Harassment incidents have trauma-based training.

- 2.7. Reviews of its policies, procedures, support services and training to ensure ongoing and appropriate response and prevention actions.
- 2.8. Appropriate security provisions for AIB events, on-campus activities, and the online environment.
- 2.9. Fulfilling its corresponding duties as per regulatory and legislative requirements including where possible countries other than Australian in which the victim and perpetrator reside, and common, contract and tort law.

Related Policies and Procedures:

[Sexual Assault and Sexual Harassment \(SASH\) Procedure](#)

Acceptable Use of Information Technology Facilities Policy and Guidelines for Staff and Students

Critical Incident Policy and Procedure

Flexible Work Policy

Glossary

Leave Policy and Procedure

Privacy Policy

Records Management Policy and Procedure

Staff Code of Conduct

Staff Equity, Inclusion and Diversity Policy

Staff Grievance Procedure

Student Code of Conduct Policy and Procedure

Student Equity and Diversity Policy and Procedure

Student Grievance Handling Policy and Procedure

Student Support Policy and Procedure

Workplace Health and Safety Policy and Procedure

Legislative references:

Sex Discrimination Act 1984 (Cth)

Criminal Law Consolidation Act 1935 (SA) ("CLCA")

Fair Work Act 2009

Australian Human Rights Commission Act 1986

External References:

Australian Chamber of Commerce and Industry 2021, *Respect@Work Employer Guide*, Edition 1, viewed 18 January 2022, <https://www.australianchamber.com.au/wp-content/uploads/2021/09/Respect@Work-Guide-Final-160921-1.pdf>

Australian Human Rights Commission 2014, *Recognising and responding to sexual harassment in the workplace: Information for employees*, viewed 27 February 2022, https://humanrights.gov.au/our-work/sex-discrimination/publications/recognising-and-responding-sexual-harassment-workplace?_ga=2.257409288.2004097592.1646024971-897493112.1646024971

Australian Human Rights Commission 2008, *Effectively preventing and responding to Sexual Harassment: A Code of Practice for Employers 2008 Edition*, viewed 3 June 2020, <https://humanrights.gov.au/our-work/sex-discrimination/publications/effectively-preventing-and-responding-sexual-harassment>

Universities Australia, *Guidelines for University responses to Sexual Assault and Sexual Harassment*, viewed 3 June 2020, <https://www.universitiesaustralia.edu.au/wp-content/uploads/2018/10/UA-Guidelines-5.pdf>

Responsibility:

Chief Executive Officer

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