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CROMWELL COLLEGE

Sexual Assault and Misconduct – Procedures for Students

1. Introduction

These procedures have been adapted from the University of Queensland's procedures which were developed in accordance with Australian and International guidelines for best-practice in relation to sexual assault and sexual misconduct prevention, management and response. While every effort has been made to provide procedures that cover most scenarios, the complex nature of sexual assault and sexual misconduct means that there will be circumstances that do not always fit neatly within these procedures. Where this is the case, the College will draw on the founding principles outlined by this Policy to deliver the best possible outcomes for those involved.

2. Prevention and education

Members of the College community are responsible for maintaining a safe and respectful environment. To assist this, the College will provide students with educational opportunities, including those around developing respectful and consensual interpersonal relationships.

2.1 The College will oversee and coordinate sexual assault and sexual misconduct prevention and response protocols and processes, communications and training.

- Students' Association Executive and Resident Assistants attend an annual training day, run by UQ, on Sexual Consent and Ethical Bystander responsibilities during P Week.
- All Freshers attend a presentation on Sexual Consent and Ethical Bystander training during O Week.
- All students complete the online UQ Module on consent prior to re-entering college each year.

2.2 The College will ensure the delivery of an education program that counters broader social attitudes regarding gender, sex and sexuality which often normalise Sexual Assault and Sexual Misconduct.

2.3 College staff, students leaders and supervisors have particular responsibilities to create an environment of 'zero tolerance' towards all forms of sexual misconduct.



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2.4 Prevention measures put in place by the College will be trauma-informed, founded on good practice, and developed in conjunction with subject matter experts as required.

3. Definitions

Sexual Assault - is any unwanted, forced, coerced sexual act or behaviour without explicit consent. It covers a broad range of sexual activity including *groping, inappropriate touching of a sexual nature, forced sexual or indecent acts without consent through coercion or trickery.*

Sexual assault may be a criminal act, as defined by the *Criminal Code 1899* (Qld).

Sexual Misconduct - is a broad term encompassing any unwelcome behaviour of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation.

Trauma-Informed – means ensuring the choice and control, physical and emotional safety, collaboration, trustworthiness and empowerment of the survivor.

Consent- Consent is freely and voluntarily given by a person with the cognitive capacity to do so (Queensland Police Service)

“Consent” is the voluntary agreement to the act or acts in question and to continue to engage in the act or acts. Voluntary agreement to engage in the activity or to continue to engage in the activity must be communicated through words or conduct.

For clarity:

- Consent cannot be implied, and can be revoked at any time during the act or acts in question.
- Consenting to one kind of sexual activity does not mean that consent is given for another sexual activity, and consent only applies to each specific instance of sexual activity.
- No consent is obtainable where an individual is incapable of consenting. An individual may be incapable of consenting if they are impaired by alcohol or drugs, or if they are induced to engage in the activity by fraud or trickery, by someone exercising a position of trust, power or authority, or through coercion or the threat of violence.

Natural Justice – is also known as procedural fairness, and is a principle that is applied by the University to ensure that decision-making is fair and reasonable.



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Need to know - describes the restriction of data which is considered very sensitive. The passing on of information will only be the facts that need to be known at the time they are need to be known and nothing more.

Disclosure - is the sharing of information regarding any incident of Sexual Assault or Sexual Misconduct with a member of the Cromwell or UQ Community.

Formal Report - is a formal statement of allegations of Sexual Assault or Sexual Misconduct. A formal statement of allegations given to the Police or another external agency is also considered a Formal Report.

Reporter - is a person making a Formal Report.

Survivor- is the individual(s) who survived the sexual assault or sexual misconduct. The Survivor is not always the 'Reporter' as described above.

Respondent - is a person about which an allegation of Sexual Assault or Sexual Misconduct is made as part of a Formal Report.

College Community - means current Cromwell students, staff, volunteers, official visitors, recognised individuals and anyone contractually bound to comply with this Policy.

Vicarious Trauma - is the emotional residue of exposure that counsellors or first responders experience from hearing traumatic stories and becoming witness to the pain, fear, and terror that trauma survivors have endured.

Sexual Misconduct Support Unit - is a cross-institutional unit responsible for coordinating UQ University's responses to Disclosures or Formal Reports of sexual assault or sexual misconduct within the UQ Community. The Unit will ensure that: an appropriately trained and supported First Responders Network is in place; survivors receive appropriate support; and that reports are investigated in accordance with these procedures.

First Responders Network - is the group of individuals at UQ who are trained to receive Disclosures or Formal Reports of sexual assault or sexual misconduct. Details of individuals and how to contact them are online at <https://respect.uq.edu.au/first-responder-network>

Integrity and Investigations Unit - is the unit at UQ where specialist resource sits, and which investigates allegations of sexual assault and sexual misconduct.



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Investigation - is an investigation carried out by Cromwell, UQ or another external agent on the basis of a Formal Report, as set out in these procedures.

Investigator- is the individual appointed by the Associate Director, Integrity and Investigations Unit to investigate a Formal Report.

Respondent- is the individual(s) who is requested to respond to allegations of sexual assault or sexual misconduct.

Victimisation - when a person does an act, or threatens to do an act against a person because:

- they have made a complaint, (complainant), or are associated with a person who has made a complaint, under this policy, or
- they have had a complaint made against them (respondent), or are associated with a person who has had a complaint made against them, under this policy.

Adverse action taken against a complainant may be unlawful under the Fair Work Act 2009 (Cth) and the Whistleblowers Protection Act 1994 (Qld). The UQ and Cromwell College will not tolerate victimisation of a complainant, respondent or person legitimately associated with the resolution of a grievance.

3. Formal Reporting and Disclosing within the College and University

People can choose to disclose and talk about their experiences with anyone. However, if students wish to seek support or action by the College or University, there are two main options – Disclosing and/or making a Formal Report.

There are two main differences between a Disclosure and a Formal Report. A Disclosure is a less formal option that is made to access support and/or Precautionary Measures. A Formal Report has additional options which may include but are not limited to, investigation and/or disciplinary action.

Disclosure does not initiate an investigation or other action by the College or UQ, subject only to section 4.4. The survivor may also elect to make a Formal Report.

From time to time, staff or students may hear a disclosure from a member of the College. It is critical that we support our community in making and receiving disclosures and where possible and when appropriate, staff and students would be advised to refer the person making the disclosure to one of the trained network of people available to ensure that they receive support as soon as possible.



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- 3.1 All Disclosures and Formal Reports will be treated sensitively, addressed in a timely manner and managed in accordance with legal requirements.
- 3.2 Students who are sexually assaulted, or exposed to other sexual misconduct, will be offered available supports, irrespective of where or when the offence occurred.
- 3.3 Students may use one or more of the following options to disclose or formally report:
 - 3.3.1 **Disclosure or Formal Report** to the Principal, Senior Staff, member of the SLT, counsellor (Vicki or external services), member of the First Responder Network, Sexual Misconduct Support Unit (UQ) or Police.
 - 3.3.2 **Anonymous** Disclosure or Formal Report to the Principal, Senior Staff, member of the SLT, counsellor (Vicki or external services), member of the First Responder Network, Sexual Misconduct Support Unit (UQ) or Police.
- 3.4 **Disclosures**
 - 3.4.1 Disclosures may be made to the Principal, Senior Staff, member of the SLT counsellor (Vicki or external services), member of the First Responder Network, Sexual Misconduct Support Unit (UQ) or Police.
 - 3.4.2 The person receiving the Disclosure will support the Reporter by outlining the options available to help them determine any next steps.
 - 3.4.3 Disclosures will be recorded and kept confidentially.
 - 3.4.4 Disclosures will be kept separate from, and not linked to students' enrolment records.
 - 3.4.5 The information can be accessed by the survivor if they wish to use it for the purposes of making a Formal Report.
 - 3.4.6 For the purposes of establishing patterns of disclosure, the information will be anonymised and patterns monitored by the College.



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3.5 Formal Reports

- 3.5.1 Formal Reports may be made to the Principal, Senior Staff, counsellor (Vicki or external services), member of the First Responder Network, Sexual Misconduct Support Unit (UQ) or Police.
- 3.5.2 The person receiving the report will support the Reporter by outlining the options available to help them determine any next steps.
- 3.5.3 In all instances, the person receiving the report will outline the support and precautionary measures that can be taken to ensure safety as outlined in Sections 6 and 7 of these procedures.
- 3.5.4 Formal Reports will be stored confidentially and in accordance with the principles of trauma-informed care. When the person making the Formal Report determines what they want to do with it, the information will be shared on a strictly 'need to know' basis.

3.6 Anonymous and Third Party Allegations / Formal Report

- 3.6.1 Anonymous allegations, or allegations of Sexual Assault or Sexual Misconduct made by a third party (someone other than the individual who was directly subjected to the Sexual Assault or Sexual Misconduct) can be submitted to the Principal, Senior Staff, member of the SLT, counsellor (Vicki or external services), member of the First Responder Network, Sexual Misconduct Support Unit (UQ) or Police.
- 3.6.2 The College, UQ or Police may be unable to proceed with an investigation involving anonymous or third party allegations, due to limited information from the individual who was directly subjected to the Sexual Assault or Sexual Misconduct, or where proceeding might not be able to deliver natural justice.
- 3.6.3 The Principal or other authority will consider whether any other steps can and should be taken. In some cases, the third party who submitted the allegations may be contacted to determine if the individual who was directly subjected to Sexual Assault or Sexual Misconduct would consider submitting a Formal Report.
- 3.6.4 Where other sufficient evidence exists and where it would not compromise natural justice, the College may decide to proceed with an



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Investigation. In such cases, the individual who was directly subjected to the Sexual Assault or Sexual Misconduct has the right to not participate in the Investigation.

- 3.6.5 If the College is unable to proceed with an Investigation involving anonymous or third party allegations, information relating to the allegations will be retained by the College.

4. Reporting and Disclosing to the Police

Three basic principles underpin the College position on students disclosing and reporting to the police authorities:

- Anyone can make a report to the police and no-one may prevent anyone else from reporting or referring a matter to the police.
- It should be the survivor's choice as to whether or not they report the matter to the police.
- There is generally no legal requirement to report alleged or suspected crimes to the police.

4.1 Where the survivor is a member of the College community and they wish to report to the police, the College will offer appropriate support to assist them through the process.

4.2 Where the survivor does not wish to make a report to the police, the College will comply with this decision.

4.3 The College notes that disclosing information to the police without consent of the survivor could cause significant harm and may impact the trust and support relationship between the survivor and the College.

4.4 There are, however, exceptional circumstances in which the College may report an alleged crime to the police, contrary to the wishes of the survivor. These are based on mandatory legislative requirements. Such circumstances include the need to protect the reporting student or others from immediate harm, or to prevent a further crime from taking place. In any sharing of information, the College would seek first and foremost to withhold survivor details.



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5. Support

The College will take all reasonable steps to ensure the safety of all parties involved or impacted by sexual assault and sexual misconduct. This may entail providing support and where necessary, negotiated practical interventions to protect survivors and alleged perpetrators and/or those making or receiving a disclosure or report of sexual assault and sexual misconduct.

5.1 Support for students will normally be offered by the Cromwell College Student Counsellor the Sexual Misconduct Support Unit (UQ) and may include, but is not limited to:

5.1.1 Counselling by a qualified mental health professional.

5.1.2 Consideration of accommodation arrangements should the perpetrator be from within the College

5.1.3 Support to make a Formal Report, within the University and/or to the Police.

6. Precautionary Measures

Where there is an allegation of sexual assault or sexual misconduct, there may be a need for the College to implement precautionary protocols to ensure that the College exercises their duty of care to all parties. The need for precautionary measures will be determined on a case-by-case basis, in recognition of the complexities and sensitivities associated with managing incidents of alleged sexual misconduct.

6.1 Any measures taken before formal action by the College, University or external authorities is not an end or a determination on whether the alleged sexual assault or sexual misconduct has occurred.

6.2 In taking any measures, the College and University will apply the principles of being trauma-informed, ensuring natural justice, and exercising its reasonable duty of care to all parties involved.

6.3 Precautionary Measures may result in a series of accommodations for all parties. Where possible, these would extend to both the survivor and the alleged perpetrator. These may include but not limited to:

6.4 Student housing re-location or short-term emergency student housing.

6.5 Class timetable changes.



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- 6.6 Temporary remote learning arrangements.
- 6.7 Academic adjustments.
- 6.8 Work placement reassignment.
- 6.9 Emergency funding.
- 6.10 Wellbeing safety planning.
- 6.11 Measures to minimise risks of victimisation.
- 6.12 Other safety measures.
- 6.13 Decisions on what measures will be taken will normally be determined by the survivor.
- 6.14 The College and University recognises that, at times, meeting the expectations of all parties will be difficult, and will seek to balance any conflicting rights and interests. Proposed measures will be discussed with the reporting party in the first instance.
- 6.15 Precautionary measures must also take into account any external requirements caused by the alleged sexual assault potentially being a criminal offence.

7. Formal Action in respect of alleged sexual assault and sexual misconduct

Formal Reporting to the College of an incident of sexual assault or sexual misconduct can result in the investigation of whether a breach of the College's policy or associated policies has occurred.

- 7.1 Upon receipt of a Formal Report, the Principal will conduct an initial review to determine if the College is able to investigate sufficiently to determine whether, on the balance of probability, a breach of one or more of the College's Policies has taken place.
- 7.2 The initial review will occur within 14 calendar days of receiving a Report unless exceptional circumstances prevent the Principal from doing so, in which case the Principal will ensure that the Reporter is informed of a revised timeline.



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- 7.3 If it has been determined that there is not sufficient information to warrant an investigation, the Principal will ensure that the Reporter is informed of this as soon as possible, including what alternative options are available to the Reporter.
- 7.4 If the Principal determines that an investigation should proceed, the Principal may appoint an Investigator to take forward the investigation, and will ensure that the Reporter is informed of the process that is expected to occur, including their option to use support persons throughout the investigation, and how to access support services. At this point the investigation may be stopped at the request of the Reporter.
- 7.5 The Investigator will, at the appropriate time, contact the Respondent to advise them that a Formal Report has been received. The Investigator will provide the Respondent with details of allegations made, and advise them of the process that is expected to occur, including their opportunity to respond, options to use support persons throughout the investigation, and how to access support services.
- 7.6 Investigations will normally be completed **within 2 months** of the Investigator receiving the Report, unless exceptional circumstances prevent the Investigator from doing so, in which case the Principal or Associate Director will ensure that the Reporter is informed of a revised timeline.
- 7.7 Investigations will be conducted in a manner that is not adversarial. Hearings are not normally held as part of the investigatory process.
- 7.8 The Investigator may use a variety of methods to investigate on the proviso that these fall within the principles of natural justice.
- 7.9 When the investigation is complete, the Investigator will prepare an investigation report that will outline the following:
- 7.9.1 Summary of information considered.
 - 7.9.2 Assessment of credibility of information considered, in terms of whether a determination can be reasonably made.
 - 7.9.3 Findings of fact.



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- 7.9.4 Findings of possible and likely occurrences.
- 7.9.5 Determination, on a balance of probabilities whether sexual assault or sexual misconduct has occurred.
- 7.9.6 Recommendations, including that possible for any disciplinary action should be considered.
- 7.9.7 Where the allegations involve an employee of the College investigation reports will be prepared in accordance with the Crime and Corruption Commissions (CCC) Corruption in Focus Manual.

8. Disciplinary Action

Where the investigation report indicates on balance of probabilities that there has been a clear breach of the Sexual Assault and Sexual Misconduct Policy, or other relevant Student or Staff Policies, the College may consider disciplinary action separate to and not linked in any way to any criminal proceedings or disclosure or reporting to the Police. The College's Student Misconduct Procedures (SMP) will be used as a guide to sanctions imposed.

8.1 Students

Where the alleged perpetrator is a student at Cromwell support measures will be put in place for all members of the Cromwell community involved while disciplinary processes are being followed. This might involve alternative arrangements having to be made for some students e.g. accommodation, meals, access areas.

8.2 Staff

Where the alleged perpetrator is a staff member support measures will continue for all members of the Cromwell community involved while disciplinary processes are being followed.

9. Management of Vicarious Trauma

Supporting and working with individuals who have been exposed to sexual assault or sexual misconduct can expose staff, volunteers and other members of the College Community to emotionally disturbing information. The capacity to empathically engage with this information and listen, validate, understand and respond to the trauma of others is a vital aspect of support. Exposure to traumatic material involves risk to the emotional and psychological health of the members of the College and UQ



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Community involved. The College understands that these risks can lead to vicarious trauma, and that vicarious trauma may be as debilitating as primary trauma.

Members of staff responsible for working directly with the survivors of sexual assault and sexual misconduct must engage regularly in supervision and take responsibility for their own self-care.

10. Records and Reporting

10.1 Confidentiality

Records of any Disclosures made to the Principal of the College or a member of the First Responder Network will be kept strictly confidential, unless there is a legal requirement to share information.

Formal Reporting to the University or Police

The decision to proceed or not proceed with a police report or Formal Report must be recorded by the person listening to the Disclosure. Records of the survivor's decision in this will be held in strict confidence. Confirmation of the decisions should be held by signature or electronic confirmation.

A survivor may, at any time in the future, decide to progress with a police report or a Formal Report and will be offered support by the College to do so.

10.2 Need to know

The disclosure of any information related to a case of sexual assault or sexual misconduct will be strictly on a 'need to know' basis. The information will be stored and shared with a restricted number of individuals within Cromwell all of whom will have a direct responsibility to both maintain confidentiality and use the information in the best interests of the individual.

10.3 Monitoring

The College will review the number and nature of any disclosures made on an annual basis and make recommendations for further improving procedures.

11. Acknowledgment

Cromwell College has adopted the University of Queensland's Sexual Misconduct Policy to be in alignment with the University's philosophy and approach to Sexual Misconduct. The College acknowledges the work done by the University in the preparation of this document.



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12. Ongoing Improvement

The College will, on a continuing basis, work to build robust, trauma-informed best-practice frameworks for the response to, and prevention and management of, sexual offences that may impact the College community.

Review: Reviews will be undertaken every two years in consultation with students and other members of the College Community

13. FLOWCHART

The flowchart on the following page summarises the key steps in Cromwell College's Sexual Assault and Misconduct Procedures.



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The following flowchart is a guide to Cromwell's Sexual Assault and Misconduct Procedures for Students. It is not exhaustive. For more detailed information please refer to Cromwell's Sexual Assault and Misconduct Procedures and its associated Policy on the website.

