



St Mark's College

## SEXUAL ASSAULT

It is very important to the safety and wellbeing of everyone who lives or works at (or visits) our College that no-one suffers any form of assault, including sexual assault.

### What is sexual assault?

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Sexual assault can include anything sexual that makes you feel scared or uncomfortable.

Sexual assault can involve strangers or people you know. It is never OK for anyone, no matter what their relationship to you, to subject you to something you are not comfortable with. Every person has the right to say what happens to their body.

### What forms can sexual assault take?

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Sexual assault can take many different forms. It can include:

- Any sexual activity without informed consent
- Doing sexual things to you when you can't make the kinds of choices you would normally make – for example, when alcohol or drugs have left you confused about what is happening or what you are agreeing to (see below on **Consent**)
- Touching any part of a person's body in a sexual way without their consent
- Exposing one's genitals or 'flashing'
- Watching a person when they are naked or doing sexual things
- Taking off a condom before or during sex without the other person's consent
- Posting sexual pictures of a person on the internet or sharing them via social media
- Making someone watch or be in pornography (videos or photos of sex or sexual things)
- Sexual harassment (any words or behaviour of a sexual nature that makes you feel offended, humiliated or intimidated – see our Sexual Harassment Factsheet)
- Sexual coercion (anyone pressuring you, or tricking you, in any way to have sex with them).

### Consent

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*Any form of sexual touching or sexual activity without **consent** is sexual assault.*

If you consent to sex it means you want to have sex at that time with that person. When sexual activity happens without consent it becomes sexual assault.

There is no consent if you are being forced. However, consent means more than just saying yes or not being forced – it needs to be informed. 'Informed consent' means there is nothing stopping you from freely choosing whether or not to consent, or from understanding what you are consenting to.

Informed consent can't happen if:

- You are passed out or unconscious — this might be due to drugs, alcohol or a violent assault
- You are asleep
- You are conscious, but the effects of alcohol or drugs leave you unable to say what you do or don't want
- The other person tricks you into thinking they are someone else
- The other person makes you feel too scared or pressured to say no
- The number of perpetrators makes you too scared to refuse or resist, or makes it impossible for you to do so.

### Other things to know about consent

**Consent needs to happen every time.** Just because you agreed to have sex once doesn't mean you agreed to have it at any other time.

**Everyone needs your consent.** Just because you are in a relationship with someone doesn't mean they can have sex with you whenever they want – they still need your consent.

**Consent has to happen at every step.** Just because you agreed to do one sexual thing with someone, doesn't mean they can do other sexual things to you – you still need to agree.

**Showing interest isn't consent.** Giving someone attention, agreeing to go on a date or flirting with them isn't consent – you have the right to say no at any time.

**Make sure you have consent.** Each and every time you engage in any sexual activity, ranging from touching or kissing to having sex, you must always have the other person's consent.

**It is a crime to go ahead with any sexual activity if you:**

- *know* that the other person does not consent
- *think* that the person *might not* be consenting, or
- *do not give any thought* to whether or not the other person is consenting.

## College policy

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St Mark's College is firmly committed to the safety and wellbeing of all students, staff and visitors and works continuously to foster respectful relationships between all members of our College community.

Any form of sexual assault is contrary to the stated values of our College. Students, staff and visitors must not engage in any such behaviour.

Our full [Sexual Assault Policy](#) is available in the Student Handbook and on the Student Portal.

## What if I have experienced sexual assault?

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If you have experienced or witnessed sexual assault, we encourage you to seek support, for your own wellbeing.

At any stage, you may speak with any of the following people at College, who have all received appropriate training and who will respond compassionately and discreetly: Master; Dean; Director of Learning; Chaplain; Assistant Deans; and Residential Advisors.

The most important thing is to ensure that you are safe and supported. Our priority is your health, safety and wellbeing.

**Disclosing:** You can talk to a support person about sexual assault you have experienced or witnessed, how you feel and what help and support you need without having to make a formal report – this is called *disclosing*.

When it comes to disclosing, the most important person is *you*. You only need to tell us what you want to tell us. We will ask you what help and support you need.

**Reporting:** If you choose to – whether before or after disclosing – you may make a formal report of sexual assault; this is called *reporting*.

A report may be made to the Master or Dean, in person or over the phone or in writing:

- Master, Ms Rose Alwyn: [master@stmarkscollege.com.au](mailto:master@stmarkscollege.com.au) / 0488 265 892
- Dean, Ms Raphaela Oest: [raphaela.oest@stmarkscollege.com.au](mailto:raphaela.oest@stmarkscollege.com.au) / 0412 432 658.

You may also choose to report sexual assault to the police.

You may ask a support person – a friend or family member, or someone you trust at College – to help you make a report or to be with you when you make a report.

We will respond to a report of sexual assault quickly. We will keep you informed about what is being done in response to the report. At all times, you and anyone else affected will be offered support. You can change your mind about the report at any time and will still be supported.



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If you need help or support, call:

- **1800RESPECT**
- **The Master, Rose Alwyn**     **0488 265 892**
- **The Dean, Raphaela Oest**     **0412 432 658**

### The Policy

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This Policy is available on the St Mark's College [student portal](#).

The College has also produced [Factsheets](#) on Sexual Harassment and Sexual Assault outlining:

- what constitutes sexual harassment and sexual assault, and
- what to do if you experience or witness any of those things.

This is a stand-alone Policy. As far as possible, it is consistent with the College's health, safety and welfare management system and with student and staff codes of conduct.

### Statement of Commitment

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St Mark's College is committed to best-practice management to minimise the incidence and effects of sexual assault.

We are committed to:

- a whole-of-community approach to preventing and responding to sexual assault
- a zero-tolerance policy towards sexual assault
- providing evidence-based education and training for staff and students throughout their time at College, and
- providing trauma-informed support for survivors, internally and/or through referral to professional support services.

We recognise that sexual assault can have traumatic and devastating impacts on people experiencing or witnessing such behaviour.

### Who is covered by this Policy

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This Policy applies to all St Mark's College staff and students, and to their visitors and invitees, on College grounds.

It also applies to everyone (College staff, students and their visitors and invitees) attending and/or participating in College events and activities, whether held on or outside College grounds.

## What is covered by this Policy

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This Policy applies to any and all forms of **sexual assault** (see **Definitions** below) perpetrated by, experienced by or witnessed by anyone covered by this Policy.

## Disclosure and Reporting

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This Policy draws a distinction between **disclosing** and **reporting** (see **Definitions** below).

This Policy covers how to disclose and how to report sexual assault to the College and how the College will respond.

Disclosing and reporting to external agencies are not governed by this Policy, but this Policy is not intended to preclude or inhibit in any way any disclosing or reporting to any external agency.

Sexual assault is a crime. Sexual assault may be reported to SA Police.

## Procedural Fairness

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The College will treat complainants and respondents in accordance with accepted principles of procedural fairness.

We acknowledge that complainants should not be adversely treated or affected in any way as a result of choosing to disclose or report sexual assault.

The College will respect the rights of respondents throughout any investigation and disciplinary processes. We acknowledge that respondents are entitled to the presumption of innocence. For the purposes of its own investigation and disciplinary processes, the College acts according to the civil standard of proof, i.e. proof on the balance of probabilities.

The College cannot pursue any formal investigation or disciplinary process where a report is made anonymously or without identifying the respondent, but the information will still be used for the purposes of the College's risk identification, assessment and prevention strategies.

## Roles and Responsibilities

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The College is responsible for implementing this Policy and responding to disclosures and reports of sexual assault.

Every person covered by this Policy (see **Who is covered by this Policy** above) is responsible for familiarising themselves with and adhering to this Policy.

Particular office-holders mentioned in this Policy have the particular roles and responsibilities set out in this Policy.

## Definitions

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<b>College</b>	St Mark's College of 46 Pennington Terrace, North Adelaide SA
<b>Complainant</b>	Person who personally experiences or personally witnesses sexual assault and who makes a disclosure or report.
<b>Consent</b>	has the meaning given by law (and see "Consent" below)
<b>Disclosure/Disclosing</b>	Any disclosure by a complainant to a support person of sexual assault experienced or witnessed by the complainant; any disclosure of the same by a support person to another support person.
<b>Report/Reporting</b>	A formal report by a complainant to the College, as provided for in this Policy, of sexual assault experienced or witnessed by the complainant.
<b>Respondent</b>	Person who has, or allegedly has, perpetrated sexual assault.
<b>Sexual assault</b>	Rape, indecent assault or any other sexual offence at common law or as proscribed by the <i>Criminal Law Consolidation Act 1935 (SA)</i> .
<b>Support person</b>	Any person to whom a disclosure of sexual assault is made.

## What behaviours are classified as sexual assault

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Sexual assault can include anything sexual that makes a person feel scared or uncomfortable.

Sexual assault can take many different forms. It can include:

- Any sexual activity without informed consent
- Touching any part of a person's body in a sexual way without their consent
- Exposing one's genitals or 'flashing'
- Watching a person when they are naked or doing sexual things
- Taking off a condom before or during sex without the other person's consent
- Posting sexual pictures of a person on the internet or sharing them via social media
- Making someone watch or be in pornography (videos or photos of sex or sexual things)
- Sexual harassment
- Sexual coercion

Rape and other sexual offences, including indecent assault, are proscribed by the *Criminal Law Consolidation Act 1935 (SA)*; any conduct or activity that would constitute such an offence, or constitute sexual assault at common law, constitutes sexual assault for the purposes of this Policy.

## Consent

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Consent to sexual activity means consent to sexual activity at that time with that person.

Consent means more than just saying yes or not being forced – it needs to be informed. 'Informed consent' means there is nothing stopping the person from giving consent or understanding what they are consenting to.

Informed consent cannot happen if the person is:

- passed out or unconscious, including because of drugs, alcohol or a violent assault
- asleep
- conscious, but unable to say what they want or do not want, including because of the effects of alcohol or drugs
- tricked or otherwise under a false impression about who the other person is
- too scared to, or otherwise unable to, say no or refuse or resist.

### **Other things to know about consent**

Consent needs to happen every time – agreement to sex at one time is not agreement to sex at any other time.

Everyone needs consent – consent cannot be assumed between people in a relationship.

Consent has to happen at every step – agreement to one sexual thing is not agreement to any other sexual thing.

Showing interest is not consent – giving someone attention, agreeing to go on a date or flirting with them is not consent.

Make sure the other person is consenting – each and every time a person engages in any sexual activity, they must always have the other person's consent.

Going ahead with sexual activity knowing that the other person does not consent is criminal, but it is also criminal to proceed with sexual activity:

- being aware of the possibility that the person might not be consenting, or
- not giving any thought to whether or not the person is consenting.

## Seeking Support – within the College

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The College encourages anyone who has experienced or witnessed sexual assault to seek support as soon as possible, so that they can be helped and supported.

We recognise that sexual assault is traumatic and that persons affected often find it difficult to talk to someone else about what has happened.

### **Disclosing**

Anyone who experiences or witnesses sexual assault can talk to a support person about what happened/what is happening, about how they feel and about what help and support they may need without having to make a formal report – this is called *disclosing*.

When it comes to disclosing, the most important person is the complainant. What/how much the complainant discloses is up to the complainant. The role of the support person is to listen and to offer help and support.

Anyone (a relative, friend, or other trusted person) can be a support person.

The following people at the College have received appropriate training in this area, and anyone who has experienced or witnessed sexual assault can seek help and support from these people at any time:

- Master
- Dean
- Director of Learning
- Chaplain
- Assistant Deans
- Residential Advisors.

The College's priority is the health, safety and wellbeing of the person who has experienced or witnessed sexual assault, and the most important thing is to ensure that they are safe and supported.

The College acknowledges that disclosure of sexual assault can also be traumatic for support persons. Support persons can also seek support from other support persons.

The complainant can ask the support person to keep the disclosure confidential, and that will be respected, except to the extent that the support person may need to disclose details in order to protect any person from a risk to safety, health or wellbeing.

The opportunities for the College to provide appropriate support, investigate effectively, and identify and respond to risks and incidents, may be limited if incidents are disclosed anonymously or confidentially or without all of the details. In such cases, the College will still use the *de-identified* disclosure (i.e. without disclosing the identity, or any details that may suggest the identity, of any person involved in the incident/s) for the purposes of the College's risk identification, assessment and prevention strategies.

For the same purposes, any member of staff of the College to whom a disclosure of sexual assault is made is required to provide *de-identified* notice of the disclosure to the Master and/or the Dean.

The College may also provide *de-identified* disclosure to the universities (The University of Adelaide, The University of South Australia and/or Flinders University) as required or appropriate.

## Reporting

A complainant may choose to make a formal report of sexual assault – this is called *reporting*. Reporting can happen at any time, whether before, after or instead of disclosing.

*A support person cannot make a report of sexual assault disclosed to them, because the College cannot be sure that the complainant wants that formal step to be taken. A support person can assist a complainant to make a report, including be with the complainant when the report is made.*

The Specific Points of Contact at the College for reporting are the Master and the Dean.

A report can be made to the Master or the Dean in person or over the phone or in writing:

- Master, Ms Rose Alwyn: [master@stmarkscollege.com.au](mailto:master@stmarkscollege.com.au) / 0488 265 892
- Dean, Ms Raphaela Oest: [raphaela.oest@stmarkscollege.com.au](mailto:raphaela.oest@stmarkscollege.com.au) / 0412 432 658.

The College will acknowledge receipt of the report, acknowledge the complainant's experience and make clear that the complainant's safety and wellbeing is the first priority.

**A complainant is free to change their mind about the report at any time, including to withdraw it or to say that they do not want any further action taken. That decision will be respected and the College will still provide support, information and advice to the complainant.**

The complainant can make a report anonymously, or without reporting all of the details, and that will be respected, except to the extent that the Master/Dean may need to take action to protect any person from a risk to safety, health or wellbeing.

It may be important to report an incident as soon as possible, so that the College can provide appropriate support, investigate effectively, and identify and respond to safety risks. Having said that, the College recognises that reporting can be traumatic and is ultimately the decision of the complainant, and the College does not impose any time limit for reporting.

The opportunities for the College to provide appropriate support, investigate effectively, and identify and respond to risks and incidents, may be limited if:

- a report is made anonymously, confidentially or without all of the details
- significant time has passed between incident and report
- the complainant and/or the respondent is/are no longer at the College, and/or
- information is disclosed to the College by a support person in the absence of the complainant.

Where reports are made anonymously, confidentially or without all of the details, or where information is disclosed to the College by a support person in the absence of the complainant, the College will nevertheless use the *de-identified* report/information for the purposes of the College's risk identification, assessment and prevention strategies.

The College may also provide *de-identified* reports/information to the universities (The University of Adelaide, The University of South Australia and/or Flinders University) as required or appropriate.

### **Specific process for responding to a report**

Instances of sexual assault reported to the College will be handled sensitively, discretely, fairly, objectively and without bias.

Counselling support services will be offered throughout the process, irrespective of whether the complainant wishes to take the matter further.

#### *1. Initial assessment*

The Master/Dean will promptly and fairly conduct an initial assessment, which at minimum will include taking measures necessary or appropriate to:

- protect any person from a risk to safety, health or wellbeing, and/or
- assist in the effective implementation and progress of any subsequent investigation or disciplinary process (whether to be conducted by the College or an external agency).

As part of the initial assessment, the Master/Dean will consider the scope and timing of further action, taking all the circumstances into account.

The Master/Dean will respect the wishes and choices of the complainant as to how the matter is dealt with, to the furthest extent possible – but the College (as part of its commitment to providing a safe place for students and staff to live, work and study) retains a discretion to take such action (which may include referring the matter for investigation and/or action to police or other external agency) as may be necessary or appropriate in the exercise of the College's duty to take reasonable care to avoid a foreseeable risk of harm to students, staff or visitors.

#### *2. Further action*

The College commits to providing support and assistance (separately) to the complainant and to the respondent (where known) throughout the process, including in understanding options, by providing relevant information in a timely way, in accessing support services, and in dealing with external agencies (where applicable).

The College will assist complainants and respondents to access support services (including medical and legal services), but is not able to provide financial assistance to complainants or respondents for such services. The College cannot advocate for either party where that might compromise the impartiality, or appearance of impartiality, of the College's processes.

The College will inform, and keep informed, both the complainant and the respondent about applicable policies and processes, investigation outcomes, and any action the College proposes to take. Throughout, the complainant remains free to change their mind about the report at any time, including to withdraw it or to say that they do not want any further action taken; that decision will be respected and the College will still provide support, information and advice to the parties.

College sanctions and disciplinary action are at the discretion of the Master, taking into account all information provided by both parties and all the circumstances.

The College does not have control over external agencies' responses to any report of sexual assault made to external agencies.

## Seeking Support – other sources

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Aside from the many sources of support at College, there are many other support services for anyone affected by sexual assault.

Support persons at College can help anyone affected to access these services.

[Yarrow Place Rape and Sexual Assault Service](#)

[University of Adelaide counselling service](#)

[University of South Australia counselling service](#)

[Flinders University counselling service](#)

[Equal Opportunity Commission \(SA\)](#)

[1800RESPECT – National Sexual Assault, Domestic Family Violence Counselling Service](#)

[SA Police](#) – Emergency assistance (including ambulance): phone 000; non-urgent police assistance: phone 131 444

[Legal Services Commission of SA](#)

## Policy Review

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This policy will be reviewed on an annual basis in January of each year, prior to publication in the student Handbook and on the student portal, to ensure that it is compliant with best practice management and the College's legal obligations.