



St Mark's College

# SEXUAL ASSAULT POLICY

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**If you need help or support, contact:**

- **the Head of College, Professor Don Markwell**
- **the Dean, Professor Peter Tregear**
- **the Director of Learning, Dr Rachel Buxton**
- **the Chaplain, Rev'd Grant Moore**
- **an external consultant – details to be advised**
- **any of the external services listed at the end of this policy, including**
  - **National Sexual Assault, Domestic Family Violence Counselling Service 1800RESPECT (1800 737 732)**
  - **Yarrow Place Rape and Sexual Assault Service : 1800 817 421 (toll free in SA)**  
**Yarrow Place provide a 24-hour crisis response service (medical and counselling services for recent sexual assault), professional counselling and the collection of forensic evidence as requested by those people who have made, or wish to make, a report to the police.**
  - **SA Police: 000 (emergency), 131 444 (non-emergency)**

## **The Policy**

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**

St Mark's College will not tolerate sexual misconduct of any kind.

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

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

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

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

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

It is important 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, and appropriate support and advice will be available to any member of College who has been accused of sexual harassment and/or assault. For the purposes of its own investigation and disciplinary processes, the College applies an appropriate standard of proof.

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

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

<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</i> (SA).
<b>Support person</b>	Any person to whom a disclosure of sexual assault is made.

## What behaviours are classified as sexual assault

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**

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

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:

- Head of College
- Dean
- Director of Learning
- Chaplain
- Assistant Deans
- Senior Residential Advisor
- 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 confidentially or anonymously is required to provide *de-identified* notice of the disclosure to the Head of College 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 Head of College, the Dean, and the Director of Learning.

A report can be made to the Head of College, the Dean, and the Director of Learning in person or over the phone or in writing:

- **Head of College: Professor Don Markwell:**
  - 8334 5600
  - don.markwell@stmarkscollege.com.au
  
- **Dean: Prof Peter Tregear:**
  - 8334 5608
  - peter.tregear@stmarkscollege.com.au
  
- **Director of Learning: Dr Rachel Buxton:**
  - 8334 5603
  - rachel.buxton@stmarkscollege.com.au

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 Head of College, Dean, and/or Director of Learning 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 Head of College, Dean, and/or Director of Learning 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 Head of College, Dean, and/or Director of Learning will consider the scope and timing of further action, taking all the circumstances into account.

The Head of College, Dean, and/or Director of Learning 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 Head of College, 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 - external consultant**

In addition to sources of support within the College, the College will appoint an external consultant to whom any member of the College wishing to make a disclosure or seeking advice may do so, including confidentially or anonymously.

The details of this consultant will be advertised when an appointment has been made.

## Seeking Support – other sources

Aside from the many sources of support at College and the external consultant who will be appointed, 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](#)

[Further information is available on their website about the following areas:](#)

- [Information about a forensic medical examination](#)  
*[This examination is most useful within 72 hours of the rape or sexual assault. However, it can be done up to 1 week after the assault.](#)*  
*[Making a decision about contacting police can be difficult. Yarrow Place offer a 'just in case' forensic medical examination. Evidence is collected and stored safely until you make a decision within a 12-month period.](#)*
- [Coping after a sexual assault](#)
- [Legal options following a sexual assault](#)
- [Medical care following a sexual assault](#)

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

[University of Adelaide counselling service](#)

[University of South Australia counselling service](#)

[Flinders University counselling service](#)

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

[Legal Services Commission of SA](#)

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

## Policy Review

This policy will be reviewed on an annual basis 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.

This policy may be reviewed and revised at other times also.

**Policy updated:** February 2020

**Policy authorised by:** Head of College

**Date to be reviewed:** January/February 2021