



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 employment, study or AIB-related activities on-campus, at AIB events and in the online environment.

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is forced, coerced or tricked into sexual acts against their will or without their Consent*, including when they have withdrawn their Consent (Australian Human Rights Commission).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 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, welcome and reciprocated, it is not sexual 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.

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

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.

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) AIB's formal reporting and misconduct investigation processes;
 - (b) contact details for internal and external support persons and services such as counselling and interpreter services;
 - (c) 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:

Acceptable Use of Information Technology Facilities Policy and Guidelines for Staff and Students
 Critical Incident Policy and Procedure
 Flexible Work Policy
 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

Legislative references:

Sex Discrimination Act 1984 (Cth)
Criminal Law Consolidation Act 1935 (SA) ("CLCA")

External References:

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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