



SEXUAL ASSAULT AND SEXUAL HARASSMENT (SASH) PREVENTION AND RESPONSE POLICY

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If you or someone else requires help in an emergency, contact 000.

If an experience of sexual assault or sexual harassment has affected or distressed you, these national services are available for support.

- **1800RESPECT** (Ph: 1800 737 732) – National Sexual Assault, Domestic Family Violence Counselling Service
- **Lifeline** (Ph: 13 11 14) – 24-hour crisis support and suicide prevention
- **Beyondblue** (Ph: 1300 224 636) – Mental health support
- **Suicide Call Back Service** (Ph: 1300 659 467)

You can also find information about how to access support on the Morling College website here:

<https://www.morling.edu.au/student-support-services/>

1. PURPOSE

To specify the principles for preventing and responding to incidents of sexual assault and sexual harassment (SASH) occurring at, or connected with, Morling College. Sexual

misconduct will be “connected with Morling College” when it occurs in circumstances described within the “Scope” below.

2. SCOPE

- 2.1 This policy applies to members of the Morling College (MC) Community when engaged in MC activities or on MC premises. Also see 2.2.
- 2.2 For those members of the MC Community (students or residents), who are enrolled in a non-MC accredited program, e.g., through Australian College of Theology or Macquarie University, the relevant policies and procedures of the enrolling institutions apply.
- 2.3 This policy applies to sexual assault or sexual harassment (SASH) affecting anyone 18 years of age or older. Disclosures of child abuse, including any sexual offence or sexual misconduct involving children or young people under 18, which is illegal, are subject to mandatory reporting.
- 2.4 Relevant policies and procedures under Respect@work legislation will apply as necessary to MC staff.
- 2.5 Any response or investigation of a report by MC is not a substitute for a criminal investigation conducted by the police.
- 2.6 This policy does not apply to sexual interaction, flirtation, attraction, or friendship that is invited, mutual, consensual, or reciprocated. However, behaviours can become sexual assault or sexual harassment if the interaction changes to non-consensual, unwelcomed, or unreciprocated.

3. POLICY STATEMENTS

- 3.1 Sexual assault and sexual harassment are unacceptable, illegal and are prohibited by Morling College. Such behaviours can cause significant harm to individuals and communities, are inconsistent with Christian conduct, and contravene the MC Community Code, the Student Code of Conduct, and the Staff Code of Conduct.
- 3.2 Behaviours which constitute sexual assault and sexual harassment are explained below in 11. Definitions.
- 3.3 Members of the MC community who have experienced sexual assault or sexual harassment, can decide whether to share information with MC, or not. There are no time limits on seeking help or advice.
- 3.4 Each main campus will have a designated SASH Contact
- 3.5 Sexual assault and sexual harassment processes will uphold biblical principles of justice (procedural fairness), humility and mercy (love) and transparency (Micah 6:8). This extends to those making a report and to those who are the subject of a report under this policy.
- 3.6 Reports made under this policy will be investigated promptly and provide person-centred support with Christian compassion and respect to all involved, either directly or indirectly.

4. PRINCIPLES

Compassion and Respect

- 4.1 SASH Contact Officers will be sensitive to the needs of those directly involved, and to those who may be indirectly affected by a SASH report.

Timelines

- 4.2 A report of Sexual Assault or sexual harassment may be lodged at any time. MC will seek to resolve all concerns and grievances promptly. All parties will be kept informed about the progress of the issue at regular intervals and will be further advised where resolution is likely to extend beyond the specified times.
- 4.3 If a report is made to an external organisation, such as the police, an MC response may need to be delayed. However, MC may still implement interim measures. See Section 7 for more details.

Confidentiality

- 4.4 Confidentiality must be *maintained* throughout the process of making and resolving reports under this policy. This requirement seeks to protect the rights and privacy of all involved and to facilitate appropriate care and response. See Section 8 for more details.

Procedural fairness and natural justice.

- 4.5 Principles of procedural fairness and natural justice encompass the following:
 - 4.5.1 SASH reporting and responding procedures should be explicit and known to all involved parties.
 - 4.5.2 SASH Contact officers will employ honesty, integrity, and fair dealing in all aspects of their communications, investigations, reporting, and record keeping.
 - 4.5.3 A person must not hear or determine a misconduct allegation if they are personally or substantially involved in any aspect of the allegation or have another relevant conflict of interest.
 - 4.5.4 All parties involved will be offered appropriate information, assistance, and support.
 - 4.5.5 An alleged perpetrator is to be given notice of the allegations against them and of any associated process. They will be given the opportunity to respond to allegations and be provided with written complaints or testimony if requested. They are entitled to the available support.
 - 4.5.6 All parties may be accompanied to any meeting by a support person if they wish.

- 4.5.7 The parties involved will not be required to meet with one another to reach a resolution.
- 4.5.8 Decisions are to be based on the evidence provided.

Recommendations for substantiated SASH reports

- 4.6 If a report has been substantiated, and recommendations made, the recommendations will be forwarded to the appropriate internal or external person or body.

Unsubstantiated Reports made under this policy

- 4.7 Procedural fairness requires, in the interest of all parties, that a person raising a report relating to sexual assault and/or sexual harassment be aware that where a concern or grievance is investigated to its full extent and cannot be substantiated, no further action can be taken. This does not restrict the right of any parties to pursue legal remedies outside the MC SASH policy and procedures.

Anonymous reports

- 4.8 Sexual assault and sexual harassment affecting students can be reported anonymously, or a person making a report can choose to provide their contact details. A report can be made by the person who experienced the behaviour, or by someone who witnessed or heard about the behaviour.
- 4.9 When an anonymous report is made, MC may be limited in what action it can take. The information provided in an anonymous report will be used to monitor the incidence of sexual assault and sexual harassment affecting the MC community, and to identify potential improvements to safety on campus.
- 4.10 The assessment of an anonymous report may lead to information being shared with police or other relevant government agencies.

Victimisation

- 4.11 Victimisation of any kind is completely unacceptable and will not be tolerated.
- 4.12 Any retaliatory or other adverse action taken or threatened against a staff member, student, or resident, because of their involvement relating to this policy, will result in disciplinary action.
- 4.13 At all times during and following the resolution process, all reasonable steps must be taken to ensure that victimisation does not occur to:
- the complainant;
 - the person/persons who are subjects in a report under this policy, i.e., the respondent; and/or
 - any other student, staff member or client with knowledge of a report made under this policy.

This includes:

- threatening, intimidating, or harassing any person
- intentionally interfering in an investigation, and
- interfering with the academic or professional progress or career of an individual.

Reporting

- 4.14 MC encourages anyone in the MC community who is affected by sexual assault or sexual harassment to seek support and, if it is their decision, to formally report this by using the MC confidential Inappropriate or Unwanted Behaviour [online report](#) or in person to a SASH Contact officer who can help them complete the online report.
- 4.15 Online reports may be edited by the complainant after submission to either delete or add information.
- 4.16 Members of the MC community who have experienced sexual assault or sexual harassment have the right to decide what information they report.
- 4.17 Any member of MC Community who experiences sexual assault or sexual harassment has the right to report to an external organisation, and the right to decide not to report.
- 4.18 For more information about how reports involving students can be made to MC and what happens when a report is received, see Sections ## of the Sexual Assault and Sexual Harassment Prevention and Response Procedure.
- 4.19 A depersonalised data report on reporting under this policy will be made to the College Board annually.

Records

- 4.20 All records pertaining to SASH will be maintained in a confidential SASH reporting file kept by the MC's appointed SASH Contact Officers. Appropriate access to files about a particular report can be gained by all parties to that report by making a request in writing.
- 4.21 Reports and files related to SASH will generally be maintained for a period of five years and then destroyed. Where a proven SASH report has longer term consequences a file may be kept for up to 15 years after the final decision before being destroyed.

Withdrawal of an Inappropriate or unwanted behaviour report

- 4.22 All submitted reports will be considered formal reports and therefore processed and assessed. MC is obligated to respond to the report, including formal investigation, to its resolution.

Frivolous or Vexatious Reports

- 4.23 Reports must be made in good faith. If, during the response process or as part of a formal investigation, it is found that the report lodged was done so

in a frivolous or vexatious manner, the person lodging the complaint will be subject to disciplinary action, as per the relevant MC disciplinary policy or contract.

- 4.24 If a person involved in providing evidence during a formal investigation is found to have provided evidence that is false and has done so in a frivolous or vexatious manner, that person will be subject to disciplinary action, as per the relevant MC disciplinary policy or contract.

Non-Restrictive

- 4.25 Nothing in this policy precludes students from taking action under Australia's Consumer Protection Laws.

5. RESPONSIBILITIES

Morling College Responsibilities

- 5.1 MC is responsible for the safety and wellbeing of staff and students. It undertakes to implement preventative strategies to address the risk of sexual assault and sexual harassment, and to review these risks as part of its Risk Management and Occupational Health and Safety processes.
- 5.2 MC is committed to preventing sexual misconduct in its physical and virtual environments through ongoing education and training. As such, MC will implement education and training for students and staff, which may include mandatory components. Exemptions may be granted people who can provide evidence of having completed similar education and training (inc through their primary institution of study) or who may experience negative impacts on their wellbeing due to past experiences.
- 5.3 MC recognises that it is impossible to eliminate the risk of incidents of sexual misconduct in any community. MC seeks to provide effective and appropriate responses to incidents of sexual misconduct disclosed or reported. MC's primary concern will be with the welfare of all those who are directly impacted by such reports/disclosures, whether they are staff, affiliates, or students.
- 5.4 MC will appoint SASH Contact Officers at each of its main campuses.
- 5.5 Training will be provided to SASH Contact Officers. A supervisor or mentor to be identified for each SASH CO for support via debriefing and if appropriate, to guide decision making.
- 5.6 In respect to reported instances of sexual assault or sexual harassment MC will:
- provide ways of reporting behaviour to MC, including anonymous reports
 - provide evidence-based and person-centred support services to those who experience sexual assault or sexual harassment
 - where possible consult with the person who experienced sexual assault or sexual harassment, and take their wishes into account when responding to a report

- assess all reports of sexual assault and sexual harassment, which may include collecting evidence e.g., accessing CCTV recordings
- ensure procedural fairness
- ensure confidentiality and privacy, in accordance with MC Privacy Policy
- impose a sanction, if an MC investigation of a report concludes a student, student organisation, or staff member has engaged in misconduct; and
- consider disciplinary action if a report is assessed to be vexatious or malicious.

Student Responsibilities

- 5.7 MC Students and residents of MC accommodation must always behave respectfully towards others. They must not sexually assault or sexually harass any other member of the MC community.
- 5.8 MC may make online or face-to-face education mandatory for MC students, or for MC students engaged in specific activities (such as leading student groups).
- 5.9 A student may ask to opt-out of part or all of education, in limited circumstances. These circumstances include:
- 5.9.1 a student can provide evidence of completion of the education course or its equivalent within the last 36 months
- 5.9.2 past experiences mean participating may have a significant, negative affect on a student's wellbeing.
- 5.10 MC may impose a sanction on students who do not complete mandatory education, and do not request to opt-out of education.

6. SUPPORT

- 6.1 The priorities of MC are the safety and wellbeing of all individuals who have been directly affected by sexual assault and sexual harassment. MC will refer students and staff directly affected by sexual assault and/or sexual harassment incidents or processes to accessible support, whether or not the incidents occurred during MC activities. Students can request support from MC, and/or from support services outside the MC.
- 6.2 Support provided by MC may include helping a student to access adjustment to their studies to support their safety, wellbeing, or academic progress.
- 6.3 Seeking support or making an informal disclosure does not lead to a formal process or investigation by MC.
- 6.4 For contact details of support services on and off campus, and examples of the kind of support a student may be able to access, see Section # of the Procedure.
- 6.5 Additional pathways for support can be accessed via contacting one of the College's appointed SASH Contact Officers.

- 6.6 Where external legal or psychological support is deemed necessary for any person connected to the response or an investigation, the College will determine any relevant funding for support on a case-by-case basis.

7 INTERIM MEASURES

- 7.1 Interim measures may be applied by MC to anyone related to a report of sexual assault and/or sexual harassment to reduce the potential for harm to any member of the Morling College community.
- 7.2 Interim measures are temporary restrictions or requirements regarding who a person can contact, or how they can contact someone, or where and when they can go on campus. These restrictions or requirements may be in place for a length of time which the College considers appropriate. MC may also place conditions on the restrictions or requirements, if appropriate.
- 7.3 Interim measures do not anticipate the outcome of any MC or external investigation and are not a determination or penalty.
- 7.4 A person who is subject to interim measures has the right to ask for the measures to be reviewed or varied.

8 PRIVACY AND CONFIDENTIALITY

Morling College Responsibilities

- 8.1 Information from a report can be disclosed for a specific purpose, if the person making the report has given consent to disclosure, or a relevant external policy necessitates this. Otherwise, MC will keep reports about sexual assault and/or sexual harassment confidential, with some limitations.
- 8.2 MC is required to report serious crimes, as defined in Section 316 of the Crimes Act (NSW) 1900. If a report provides information about a serious crime, MC must share this information with the police. MC is also required, by law, to protect student and staff safety and may need to provide information to the police and/or relevant government agencies to safeguard the MC Community.
- 8.3 Mandatory reporting legislation may also affect confidentiality. Information about sexual assault or sexual harassment that involves individuals under 18 years old (whether as victim, perpetrator, or witness) must be reported to relevant government agencies, which may include the police.
- 8.4 Where MC responds to a report, students and staff involved in the response or any investigation must maintain confidentiality, subject to external requirements.

Student Responsibilities

- 8.5 Students involved in any report, investigation or response may only disclose information if seeking support or advice from the following:
- a confidential communication to immediate family members or a trusted person

- registered a health professional (such as a General Practitioner or psychologist)
- a spiritual leader or Elder
- a registered legal practitioner
- police
- staff from relevant government agencies, including state and federal agencies.

8.6 Disclosure of information about a report, MC response or investigation may be a breach of the relevant Codes of Conduct (student, staff, MRC) and treated as a disciplinary matter.

9 ASSESSMENT BY MORLING COLLEGE

9.1 An assessment by MC will be undertaken according to the Sexual Assault and Sexual Assault and Sexual Harassment Response Procedure.

9.2 Where an MC assessment concludes that the behaviour(s) reported, on the balance of probabilities, is a breach, a finding of misconduct may be made under the relevant MC disciplinary policy or contract.

10 APPEALS OR DISSATISFACTION WITH MORLING COLLEGE'S RESPONSE

10.1 Anybody involved in an assessment or outcome of a report related to sexual harassment or sexual assault may appeal. Where a person has made a report to MC about sexual harassment or sexual assault, and is not satisfied with the College response, that person can make a complaint to MC or to an external organisation, as described in the relevant Grievance Policy.

11 DEFINITIONS

Key Term or Acronym	Definition
Balance of probabilities	A standard of proof, which means that it was more likely than not that something occurred in a certain way.
Child	Any person under the age of 18.
Consent	Consent means a person has freely chosen to take part in sexual contact. Consent requires ongoing agreement; it can be withdrawn at any time. Where consent is withdrawn, or cannot be given, sexual contact must stop. If someone has given consent in the past, it cannot be assumed that they consent to further sexual contact. Consent cannot be assumed because someone does not resist, verbally or physically, or because they do not appear to be resisting. Consent can be given by words or actions if those words or actions are clear indications of willingness to engage in sexual contact.

	<p>A person is not able to consent to sexual contact when:</p> <ul style="list-style-type: none"> • they are asleep or unconscious • they are substantially intoxicated by alcohol or any drug • they do not have capacity to consent because of their age, physical disability or cognitive capacity • they are intimidated, coerced, or threatened • they are unlawfully detained • they are pressured to engage in sexual activities by another person, who is in a position of power, authority or trust • they are tricked about the identity of any person involved • they are tricked about the situation • they are under 16 years of age.
Interim measures	Interim measures are temporary restrictions or requirements regarding who a person can contact, or how they can contact someone, or where and when they can go on campus.
MC	Morling College Limited which includes all its campuses and its controlled entities eg Morling Residential College, Morling College Village
MC Accommodation	Means any: <ul style="list-style-type: none"> • Morling Residential College • Morling Village • Residential premises which are owned, operated, or managed for MC staff or students.
MC activities	Means the activities of MC and MC community, including: <ul style="list-style-type: none"> • teaching, study, and research at MC • the management or administration of MC • recreational, commercial, disciplinary, or ceremonial activities of MC or MC community • any clinical, professional, or practical work, including workshops, camps or fieldtrips or vocational placements, whether or not it is part of a program or unit of study at MC • any other activities sponsored, controlled, or supervised by MC, including sporting events, cultural activities, competitions, conferences, student clubs, exchanges or sabbatical • online activities associated with MC, such as MC online learning platforms and MC social media.
MC community	Includes the following: <ul style="list-style-type: none"> • members of the Morling College Board • staff (see Definition below) • students (see Definition below) • residents in MC accommodation • sub-contractors and tenants working on MC premises • persons conducting an authorised business or other activity upon MC Premises;

Morling College Premises	Means any: <ul style="list-style-type: none"> premises owned, operated, supervised, occupied or controlled by MC, including premises of which MC is the landlord; premises on which MC activities take place;
MRC	Morling Residential College
Person-centred	Refers to an approach that supports a victim or survivor's rights and wishes; and prioritises safety, dignity and respect.
SASH	Sexual assault and sexual harassment
Sexual Assault	For the purposes of this Policy, a person may be considered to have sexually assaulted another person if: <ul style="list-style-type: none"> the other person did not consent to sexual contact or a sexual act; and the person should have reasonably known, having thought about the circumstances, that the other person did not consent to sexual contact or a sexual act. Sexual harassment can take many forms and may be physical, verbal, or occur online. It includes behaviour that may be considered an offence under criminal law, such as stalking. Sexual assault is a legal term used to describe a range of sexual offences, from showing indecent images to another person, to kissing or touching them, as well as penetration of the person's body with a body part or object. Further information
Sexual harassment	For the purposes of this Policy, sexual harassment is defined as: <ul style="list-style-type: none"> unwanted sexual advances, or unwelcome requests for sexual favours; or other unwelcome behaviour of a sexual nature; and a reasonable person, considering the situation, would expect the person experiencing the behaviour to be offended, humiliated, or intimidated by the behaviour. Sexual harassment can take many forms and may be physical, verbal, or occur online. It includes behaviour that may be considered an offence under criminal law, such as stalking. Examples of sexual harassment include, but are not limited to: <ul style="list-style-type: none"> unwelcome touching, hugging or kissing staring or leering unwanted invitations to go out on dates unwanted requests for sexual contact intrusive questions about a person's private life or body sexually explicit emails or SMS messages touching or fiddling with a person's clothing, such as lifting a skirt or pulling down trousers.
Staff	Any staff member of MC, including officers, employees and contractors of MC and appointees to conjoint, adjunct, emeritus, honorary, and visiting academic positions of MC.

Student	<p>Does not include students enrolled in an ACT unit or award for credit.</p> <p>A student of MC and includes:</p> <ul style="list-style-type: none"> • a person taking any unit not for credit i.e. audit • a person who is enrolled in a program or unit of study in Education; Counselling; or Chaplaincy and Spiritual Care • a person who has accepted an offer of admission to MC but who has not yet enrolled in any program or unit of study • a student of another educational institution who is authorised by MC to be on or to have access to or use of MC property • a person who was a student at the time of any alleged misconduct • a person who became admitted or enrolled as a student after having done so by misleading or dishonest means • any person who undertakes any academic exercise on MC premises or which is part of a program or unit of study provided, supervised, or assessed by MC.
Vexatious/malicious reports	<p>A report will be considered vexatious or malicious if:</p> <ul style="list-style-type: none"> • it does not have a basis in fact; and • it causes damage to another person's or MC's reputation or standing.

12 RELATED DOCUMENTS AND LEGISLATION

Legislation

Anti-Discrimination Act, 1977 (NSW)

Children and Young Persons (Care and Protection) Act (NSW) 1998

Crimes Act 1900 No 40 (NSW) Division 10 Sexual offences against adults and children.

Equal Opportunity Act 1984 Equal Opportunity Act 1984

Health Records and Information Privacy Act 2002 (NSW)

Privacy Act 1988 (Cth)

Privacy and Personal Information Protection Act 1998 (NSW)

Respect@Work legislation (Cth) forthcoming

Sex Discrimination Act, 1984 (Cth)

Tertiary Education Quality and Standards Agency Act 2015 (Cth)

Work, Health and Safety Act, 2011 (NSW)

Morling College documents

Course Review Policy

Discrimination, Bullying and Harassment Prevention Policy

Health and Safety Inspection Checklist

Morling College Community Code

MRC Code of Conduct

Privacy Policy

Protection of the Vulnerable Policy
 Risk Register
 Sexual Assault and Sexual Harassment Response Procedure
 Staff Code of Conduct
 Staff Grievance Procedures
 Student Code of Conduct

13 REFERENCES

Australian College of Theology Sexual Assault and Sexual Harassment Policy
 Macquarie University Sexual Assault and Sexual Harassment Policy
 Macquarie University Sexual Assault and Sexual Harassment Procedure
 Macquarie University Guide to Student Sexual Assault and Sexual Harassment Policy
 and Procedure
 University of NSW Sexual Misconduct Prevention and Response Policy

14 VERSION HISTORY

Version	Approved by	Approval Date	Effective Date	Changes made
2.01	Policy Coordinator	Feb 2023	Feb 2023	Header table updated to latest version, including addition of keywords.
2.00	MC Board	20 September 2022	20 September 2022	
	Reviewed by Academic Board	14 September		Reference to WA legislation added.
	Reviewed by HR Committee	12 September 2022		Amended to harmonise with ACT policy. Make explicit that the policy extends to those impacted by a SASH report. Minor amendments for consistency and clarity
1	MC Board	4 February 2021	4 February 2021	New

Download this policy anew with each use, as it may have changed.