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Sexual Misconduct, Harassment & Unacceptable Behaviours

Procedures for Allegations Reported to Police

PROMOTING EXCELLENCE • ENSURING COMPLIANCE
SUPPORTING OUR COMMUNITY



GOVERNANCE



QUALITY



COMPLIANCE



EXCELLENCE



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(Trading name of Oakswood Group Ltd)

Policy on Sexual Misconduct, Harassment and Unacceptable Behaviours

APPENDIX D: Procedures for Allegations Reported to the Police

Review: Annually alongside the main policy

D1. Process to Follow Where Incidents Are Reported to Police: Quick Reference Flowchart

Below is a quick reference flowchart representing a summary of the internal College process for handling incidents reported to the Police. If a case has been reported to the Police, the steps below should be followed:

- 1. Place internal proceedings on hold** (ensure Stage 1 Disclosure Investigation Form is completed) →
- 2. Complete risk assessment**, assess and implement precautionary measures where/if necessary → **3. Monitor outcome** of Police investigation/court proceedings →
- 4. Post-investigation/court proceedings:** resume or initiate internal Disclosure management process under Policy on Sexual Misconduct, Harassment & Unacceptable Behaviours →



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5. If conviction/caution: undertake risk assessment and refer into relevant student-related procedures (eg Non-Academic Misconduct Policy; Support Through Studies) as appropriate

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6. Provide post-case support as appropriate to involved parties →

7. Ensure records are complete and confidentially secure (only retain necessary information).

Applicable key principles of the Policy on Sexual Misconduct, Harassment & Unacceptable Behaviours in relation to matters that may be reported to the Police:

- The Policy does not require the College to establish that a criminal act has occurred – indeed, the College does not have the legal jurisdiction to establish or declare this.
- A breach of the Policy is defined as *“A breach of, or damage to, the relationship of trust and confidence that exists between the individual and Oakswood College, as a result of unacceptable behaviour that is of a sexual, harassing, or other nature on the part of the individual.”*
- This means that in enacting any procedures, the College only needs to define **whether a breach of the Policy has occurred**. To establish that a breach of the Policy has occurred, the College only needs to be satisfied that unacceptable behaviour as set out in the above definition more likely than not occurred, and that it has caused a breach of, or damage to, the relationship of trust and confidence.
- Where a matter has been reported to the Police but the Police investigation concludes there is no further action, or a Court finds a Respondent not guilty of an alleged criminal offence, this does not prevent the College from recommencing its own internal investigation to determine whether an actual breach of its Policy has occurred.
- Where a matter is reported to the Police and a conviction or caution is received by a Respondent, that will be taken into account by the College and may result in a referral into procedures under the Non-Academic Misconduct Policy.

D1. The College's Position on Reporting to the Police

The decision whether to report an incident to the police rests with the person who experienced it. The College will never pressurise any person to report or not to report to the



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police. The College will support any person who wishes to explore this option, including by providing information about specialist external services such as Sexual Assault Referral Centres (SARCs).

Where a person wishes to report to the police, the College will support them in doing so. Staff must not take any action that could compromise or prejudice a criminal investigation, including attempting to gather evidence or statements in a way that could conflict with police procedures.

This means that where an incident has been reported to the Police, any formal College procedures will normally be placed in abeyance pending the conclusion of the Police investigation and any resulting outcome. A further reason for holding College procedures in abeyance is that any decision made by the College about what steps to take, including referral into any respective College student-related procedures, may be affected by the outcome of a Police investigation.

D2. Deciding Whether to Pause an Internal Investigation

Any decision to pause will be made by the Chief Executive Officer or their nominee, recorded in writing by the Disclosure Investigation Officer on the Stage 1 Report Form applicable to the case with reasons, communicated to the Respondent and the Complainant and any key staff involved on a strictly necessary basis, and reviewed regularly. The decision to pause may necessitate Precautionary Measures in the immediate short-term, and the subsequent referral of a party reported to the Police into the procedures under the College's Policy on Emergency Student Exclusion or Suspension.

Support will continue to be available to all parties throughout any pause. The College will seek regular updates from the Police and will reinstate the internal process promptly once the criminal investigation or proceedings have concluded or the risk of prejudice has passed.

D3. Effect of Criminal Outcomes on Internal Proceedings

A conviction in criminal proceedings arising from the same conduct will be treated as conclusive evidence in any internal process that the convicted conduct occurred. A guilty plea will be treated in the same way.

A decision by the police not to prosecute, or an acquittal in criminal proceedings, does not prevent the College from investigating the same conduct under this policy and reaching its own findings on the balance of probabilities. An acquittal does not mean the conduct did not occur. It means the criminal standard of proof ('beyond all reasonable doubt') was not met, which is a higher and different standard from the civil standard of 'balance of probabilities' applied by the College.

D4. Anonymity and Reporting Restrictions

The College is aware that persons who report sexual offences to the police may be entitled to automatic anonymity under the Sexual Offences (Amendment) Act 1992. The College will ensure that its handling of any matter under this policy does not compromise that anonymity. Staff will be made aware of this requirement as part of their specialist training.

D5. Information Sharing with the Police

The College will cooperate fully with police investigations and will share information as required by law. Where the Police request information about a student or member of staff in connection with a criminal investigation, the College will seek legal advice before sharing and will share only what is required and authorised. Any sharing of personal data with the police will be recorded and handled in accordance with the College's Data Protection Policy.

D6. Support Throughout

Where a person has made a report to the police or where a criminal investigation or prosecution is ongoing, the College will maintain all support arrangements described in the main policy. The availability and nature of support will be reviewed regularly in light of the progress of any criminal proceedings.

The College will ensure that staff who are supporting a person through a process involving both College and criminal proceedings are aware of their responsibilities and have access to guidance from the Designated Safeguarding Lead and, where necessary, from legal advisers.