



LINCOLN
COLLEGE

LINCOLN COLLEGE INC
RESPECTFUL RELATIONSHIPS POLICY

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Policy Rationale and Background

This policy has been prepared in accordance with the recommendations of the Broderick report into “Cultural Renewal at the University of Sydney Residential Colleges” (p56) – a checklist of recommendations follows before the policy begins on p4.

From the report

“Best practice standards for preventing and managing sexual misconduct have been established by international and Australian studies, including those conducted by the White House Task Force; the Universities UK Task Force; End Rape on Campus Australia (EROC); the Australian Human Rights Centre of the University of New South Wales; and the Australian National Association for Services Against Sexual Violence.

These studies are based on university-wide information. However, a number of studies have noted the potential for the increased incidence of sexual misconduct in residential settings. As Armstrong et al. have noted in their study of a residential hall at a Midwestern American research university, residential settings at universities are microcosms of the key structural and cultural factors that enable sexual misconduct on campus, including normalised heavy alcohol consumption and gender hierarchies, or what they call ‘the development of sexualised peer cultures organised around status’. **For this reason, best practice principles for combatting sexual misconduct broadly are applicable to residential colleges.** Indeed, because residential colleges are smaller communities, they have the potential to enact cultural change more quickly, and be a model to their universities.

Five key principles of best practice emerge from the evidence:

1. Residential Colleges should adopt a whole-of-community integrated and holistic framework for preventing and responding to sexual misconduct.
2. The institution must have a **stand-alone zero-tolerance policy** about sexual misconduct which is clear, well-communicated and readily accessible. This policy should clearly articulate consequences for any breach.
3. **Survivors must be supported**, including through appropriate reporting options and trauma-informed professional support.
4. Appropriate **evidence-based, education and training** must be provided for staff and for student leaders. Staff and student leaders should be trained in trauma-informed and survivor-centred responses. Sexual misconduct prevention education programs should be grounded in an understanding of gender, other identities and related power dynamics, as well as framed in terms of ethical relationships.
5. Institutions must implement procedures to ensure transparency and disclosure, and conduct self-assessments to track policy efficacy.”

Broderick Report Recommendations

Best practice standards recommend a comprehensive, clear, detailed policy that is widely communicated and readily available, including on the institution's website. The policy should¹:

Recommendation	Does the Lincoln policy comply?
Expressly prohibit sexual misconduct and make clear the consequences of breaching the policy.	Yes
Define key terms and concepts, illustrated with relevant examples in order to clarify the meaning of and behaviours that constitute sexual harassment, sexual assault and consent.	Yes
Acknowledge the institution's responsibility to provide a safe and respectful environment for all.	Yes
Articulate expectations that all staff and students in the institution's community play a role in creating a safe and respectful environment.	Yes
Provide clear details on processes for reporting and responding to sexual misconduct, including with specific names and contact details, and how to support someone who has experienced sexual assault.	Yes
Provide clear guidance and a variety of options for survivors/victims to disclose, and to seek support, counselling and health services.	Yes
With regard to disciplinary action against alleged perpetrators, a coordinated response between Colleges and the University should be considered where the student and perpetrator are studying on the same campus (see recommendations below).	Yes
Information regarding perpetrator accountability is included in the sexual misconduct policy, and the processes made clear in advance to those reporting.	Yes
While the College should maintain the principles of due process for the alleged perpetrator, consideration must be given to the affected student, as well as to the safety of other students. Such consideration may mean that an alleged perpetrator is temporarily removed from the College and potentially suspended from the campus	Yes

¹ From the Broderick report P56.

Lincoln College Respectful Relationships Policy

Preventing and responding to discrimination, harassment, sexual harassment, assault, indecent assault and sexual assault

- All residents, staff and guests of the College are expected to maintain respectful relationships always and in all circumstances. Discrimination, harassment (in person or online), sexual harassment (in person or online), assault, indecent assault and sexual assault are not acceptable and will not be tolerated.
- All residents, staff and guests of the College should understand that harassment, sexual harassment, assault, indecent assault and sexual assault are criminal offences.
- All residents, staff and guests of the College are expected to actively seek informed consent in their interactions with others and respect when it is not given or withdrawn.

Background to the Policy

Lincoln College seeks to support residents through their transition into adulthood with a breadth of intellectual, spiritual, cultural and social experiences. Rather than creating policy grounded in punitive measures, this policy aims to empower College residents, staff and guests by focusing on wellbeing and encouraging them to think critically, make informed choices and to hold themselves and others accountable for their actions. It seeks to assist all College residents, staff and guests to engage in respectful relationships always, to actively seek informed consent and ethically negotiate all relationships and interactions.

At the same time, Lincoln College is firmly committed to the safety of all residents, staff and visitors, and expects all people who interact with the College to abide by the College values and the law. Lincoln College does not tolerate any form of harassment, assault, indecent assault, sexual assault, vilification or victimisation of or by its residents and staff and takes a zero-tolerance approach to these behaviours where they are reported. Lincoln College upholds the following legislation which provides a legal framework for our Respectful Relationships Policy (the “Policy”): *Equal Opportunity Act 1984 (SA); Work Health and Safety Act 2012 (SA); Sex Discrimination Act 1984 (Cth); Criminal Law Consolidation Act 1935 (SA)*.

College residents are young adults who are legally accountable for their actions. As a result of this, the College’s policy and procedures relating to respectful relationships emphasises personal responsibility and conformity with the law, as well as structural supports for encouraging respectful relationships in daily College life.

Lincoln College recognises that discrimination, harassment, sexual harassment, assault, indecent assault and sexual assault are abuses of power that contravene the Lincoln College Code of Conduct and our values. Residents, staff and visitors must not engage in such conduct. Sexual assault and indecent assault are crimes; the College encourages residents and staff to report any instances of sexual or indecent assault to both the College and the Police. The College takes all reports of inappropriate conduct seriously and has processes for responding to these reports with impartiality and sensitivity, in line with best practice in supporting people in these circumstances.

Scope and Purpose

This policy applies to all residents, residential staff and non-residential staff, whether on or off Lincoln College grounds. Alumni, contractors and visitors to College are also considered to be bound by College policies when on site. The law regarding sexual assault applies to everyone in South Australia, including all visitors to the College.

This policy aims to;

- Ensure that College is a safe and respectful community
- Guide College residents in creating a community where all residents value informed consent and respect choices
- Clearly set out the behavioural expectations and legal obligations of College residents, staff and guests
- Outline the processes that Lincoln College leadership have put in place to make Lincoln a safe place for residents and staff to live and work
- Make College residents aware of the support available to them
- Encourage College residents to seek help for any situation where they feel uncomfortable
- Inform College residents of the procedures that the College will follow in responding to a report
- Make clear to College residents the consequences of breaching this policy
- Ensure that any adverse experiences are approached ethically, are dealt with sensitively, fairly and confidentially, and within Australian law.

Lincoln College – Building a safe environment

Lincoln College takes very seriously its responsibility to protect residents and staff from sexual assault, harassment, vilification, bullying and victimisation. In discharging this responsibility, Lincoln has an ongoing commitment to:

- Ensure, as far as possible, that there is no unlawful discrimination, sexual harassment, discriminatory harassment, vilification, bullying or victimisation of residents or staff;
- Communicate regularly with the resident community that sexual assault and sexual harassment are both illegal and unacceptable;
- Train staff and student leaders to respond appropriately to reports and complaints of assault, harassment or other unacceptable behaviour;
- Ensure that Lincoln policies, procedures and documentation accord with Equal Opportunity, and Health, Safety and Wellbeing best practices, and are updated as necessary;
- Establish and maintain clear processes to manage and investigate disclosure and reports concerning matters covered by this policy;
- Provide advice and support to residents and staff in relation to complaints on matters covered by this policy;
- Align this policy as closely as possible to those of the University of Adelaide, UniSA and Flinders University, while making sure that the particular needs and structures of the College as an educational and residential community are taken into account.

Definitions

Reporting Party

A Reporting Party is any person who makes a report concerning the behaviour of another person/s. Any individuals or groups who have witnessed or had something happen to them that they think has breached the College's Respectful Relationships Policy can make a report. This can be about the behaviour of a Lincoln College resident or an outsider. This can be for an incident/s either on or outside College grounds. The College seeks to support and empower the reporting party, who is not obligated to pursue any particular course of action unless there is significant risk to the reporting party or others. Lincoln college will support any reporting party wishing to go to the Police to report criminal incident/s.

Responding Party

A Responding Party is any person who has had a report made concerning them. Since the College is unable to satisfactorily investigate reports made against external persons, reports made concerning external persons will result in a ban from College grounds. Lincoln College will support any reporting party wishing to go to the Police to report criminal incident/s. Security and/or the police will be called should the external person/s seek to re-enter College grounds.

Support Person

A person to whom the Reporting Party has spoken about the alleged breach of the Policy.

Informed Consent

Lincoln College residents, staff and guests have the right to make choices free from peer pressure and with a clear understanding of the facts and potential outcomes of that choice. This is "informed consent" and should be actively sought when interacting with others in any area of life.

Informed consent can only be given by those who are:

- 17+ years old
- Fully conscious and not intoxicated
- Free to act without the influence of others, especially older community members
- Aware of all the relevant facts

This includes:

1. Being given sufficient information to understand what they are agreeing to
2. Being given a free choice to opt in or out, without adverse consequences
3. Being permitted to change their mind at any time

Consent to sexual activity

Consent to sexual activity in South Australia is defined in s 46 of the Criminal Law Consolidation Act 1935 (SA) as free and voluntary agreement. Under the legislation, a person does not freely and voluntarily agree to sexual activity if:

The person agrees because there has been force applied (this includes an express or implied threat of force to the victim or to another person) or because of a threat to denigrate, humiliate, disgrace or harass the person or another person, or out of fear; or

- The person was unlawfully detained at the time of the activity; or

- The person is asleep or unconscious when the activity occurs; or
- The person is intoxicated to the point of being incapable of freely and voluntarily agreeing when the activity occurs; or
- The activity occurred whilst the person was affected by a physical, mental or intellectual condition or impairment; or
- The victim is unable to understand the nature of the activity; or
- The victim agrees to engage in the activity with a person under a mistaken belief as to the identity of that person; or
- The person is mistaken about the nature of the activity (for example, a person is taken not to freely and voluntarily agree to sexual activity if they agree to engage in the activity in the mistaken belief that the activity is necessary for the purposes of medical diagnosis, investigation or treatment, or for the purpose of hygiene).

Being under the influence of alcohol or drugs is not an invitation to sexual advances or activity. Equally, being under the influence of alcohol or drugs is not an excuse for improper or unlawful behaviour. **Each and every time you do anything sexual, ranging from touching or kissing to having sex, you must always have the other person's consent.** This means taking responsibility for ensuring the other person is consenting to the sexual activity, with you, throughout the course of the interaction. Never assume that a person is consenting because they have previously said yes, or because of their reputation, or because of the way they act or dress, or for any other reason. Consent can be withdrawn – if consent is withdrawn, then **stop**. Going ahead with sexual activity knowing that the other person does not consent is criminal. It is also criminal to proceed with sexual activity if you:

- Are aware of the possibility that the person might not be consenting; or
- Do not give any thought to whether or not the person is consenting (so-called *reckless indifference*).

Even where a Responding Party was intoxicated at the time the offending occurred, he or she can be guilty of sexual assault provided intent to commit the offence can be shown.

Reckless indifference to consent

A person is guilty of sexual assault if he or she knows that the other person does not consent (or has withdrawn their consent) or is recklessly indifferent as to whether the other person has consented. Reckless indifference in the context of sexual offences means a failure on the part of the Responding Party to consider the other person's wishes, having utter disregard as to whether or not they have consented (or withdrawn consent).

Under the legislation, a person will be found to be recklessly indifferent to the fact of consent (or withdrawal of consent) if he or she:

- Is aware of the possibility that the other person might not be consenting (or has withdrawn consent) but decides to proceed regardless of that possibility; or
- Is aware of the possibility that the other person might not be consenting (or has withdrawn consent) but fails to take reasonable steps to ascertain whether the other person does in fact consent before proceeding; or
- Does not give any thought to whether or not the other person is consenting to the act (or has withdrawn consent).

Sexual Assault

Sexual assault is a serious crime. It is a violation of trust, an exploitation of vulnerability, and an abuse of power. Any sexual activity to which a person has not consented is sexual assault. It is sexual assault if a person has sexual intercourse with another person without the consent of that person, either knowing that there is no consent or being recklessly indifferent about that consent. It is sexual assault if a person continues to have sexual intercourse with another person where consent has been withdrawn. It is sexual assault if consent is not obtained, even where the person does not physically resist. It is sexual assault where a person compels another to engage in, or to continue to engage in sexual intercourse with a person other than the offender; or an act of self-penetration. Sexual assault under the law means: unwanted oral, anal or vaginal penetration, by any part of the body of another person, or any object, and includes oral sex.

Sexual assault may be a single incident or may occur over time. Sexual assault is not defined by gender; it can happen to anyone, of any gender.

Sexual assault is **never** the fault of the victim. It is important to remember that the perpetrator is always responsible for the sexual assault.

Indecent Assault

Indecent assault is touching (or the threat to touch) a person's body in a sexual manner without consent by another person. For example, indecent assault may include unwanted touching of a person's breasts, bottom or genitals.

Sexual Harassment

Sexual Harassment is any unwanted behaviour of a sexual nature that offends, humiliates or intimidates an individual or group of people, and may occur as the result of a single incident or repeated incidents.

The law in South Australia says that a person sexually harasses another, if:

- (i) *The person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or*
- (ii) *Engages in other unwelcome conduct of a sexual nature in relation to the person harassed,*

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated, or intimidated.

Sexual harassment may include:

- Displaying sexual material where it can be seen by others (online or in real life)
- Sending or requesting sexually explicit photographs by mobile or online (so-called “nudes” or “dick pics”), where this is unwanted by one party
- Unwanted sexual advances
- Unwanted requests for sexual behaviours
- So-called ‘traditional’ chants or sporting songs that are sexually-oriented in nature
- Hazing activities that focus on sexualised jokes, actions or activities
- Making unwanted jokes of a sexual nature
- Other unwanted behaviour of a sexual nature

Sexual harassment is against the law and may result in financial and other penalties. It is unlawful for a person to cause, instruct, induce or assist another person to act in a way that constitutes sexual harassment. This person can be penalised in the same way as the harasser. Once a complaint of sexual harassment has been made, it is unlawful to treat a person unfavourably because they have made a complaint.

Assault

Assault is any action or threat of action which intentionally inflicts injury, force or violence on an individual or group of people. Assault may include:

- Spitting
- Hitting
- Kicking
- Punching
- Slapping
- Administering an intoxicating substance without a person's knowledge

Harassment

Harassment is any unwanted behaviour that offends, humiliates or intimidates an individual or group of people, and may occur as the result of a single incident or repeated incidents. This includes stalking and intimate partner violence, as well as displaying material online or in real life that targets a person or group of people. Harassment because of a person's actual or perceived status may be based on:

- Gender, including transgender status
- Race including colour, nationality, descent, ethnicity or ethno-religious background
- Sexuality
- Disability
- Age
- Marital or domestic situation
- Pregnancy or breastfeeding
- Carer's responsibilities

Discrimination

Discrimination occurs when an individual or group of people are treated less favourably than another individual or group of people, because of an actual or perceived characteristic of that individual or group of people.

Reporting Process

Confidentiality

All enquiries or reports on matters pertaining to breaches of this policy will be treated with sensitivity and respect, and will remain confidential except when it is assessed that it is likely that there is a significant risk to any College resident, staff or guest. College residents should feel free to raise concerns in the abstract, or on a hypothetical basis, where they are determined that strict confidentiality be maintained, although this may limit the extent to which the College can follow up on the reports made. However, support will always be provided to those who seek it.

Once a report is made

Reports of breaches to the Respectful Relationships Policy will be handled in a sensitive, discreet and fair manner, as outlined below. Where a breach of the policy involves a reported instance of indecent assault or sexual assault, the matter will be handled under the conditions outlined in the Sexual Misconduct Policy, which overrides the conditions of the Respectful Relationships Policy.

Initial report

A report of behaviour that breaches the Respectful Relationships policy can be made to the Head of College, the Dean, the Senior RA, Senior AT, or a Residential Advisor. Lincoln College encourages residents and staff to report any breaches of the Respectful Relationships policy. We are here to provide support, referrals, and information to assist you; and to follow up, where appropriate, with the respondent to ensure such behaviour is not repeated.

Formal report

You may disclose details of a breach of the Respectful Relationships policy and request that the matter be taken further. The College will then determine what further action will be taken, and in these circumstances, you will receive support and assistance throughout the process. You can expect that the College will respond to your report promptly and in a way which cares for your safety, health and wellbeing.

The College will conduct an initial assessment, which may include taking steps to ensure a safe and non-discriminatory environment for you within the College community. The College may also employ interim protective measures as may be appropriate for the individuals involved.

The scope and timing of further investigation and/or action will depend on a number of other factors, including:

- Whether you want to report the matter to Police, the University, or other external agencies
- Whether you wish to make a disciplinary complaint under this Policy (i.e., a formal complaint that may lead to internal sanctions and disciplinary action) and
- Whether you request confidentiality or that the investigation not be pursued.

Both the Reporting Party and the Responding Party will be notified of applicable policies and processes, of investigation outcomes and of any further action the College proposes to take. Both parties will be offered individual counselling and support.

College sanctions and disciplinary action, if requested to be pursued by the Reporting Party, are at the discretion of the Head of College and Disciplinary Committee, considering all the information

provided by both parties and all the circumstances. The Reporting Party will be advised of the sanctions that the Head of College plans to impose.

Possible sanctions to the Responding Party may include:

- Exclusion from College, in the case of egregious or repeated breaches of the Policy
- No right of re-admission to College
- Suspension from College
- Written Admonition/Formal Written Warning
- Change of Allocated Room
- Community Service
- Probation
- Counselling
- Formal apology

Where to go for support and information

Executive Residential Staff

The role of the Executive Residential Staff is to provide support and information to anyone in College who is concerned about any possible discrimination, harassment, sexual harassment, assault, indecent assault or sexual assault. Appointed staff members include;

- The Dean of Students
- The Senior Residential Advisor
- The Senior Academic Tutor

These Officers can provide confidential information and support regarding the Respectful Relationships policy and procedures. They may be instructed by the Head of College to investigate any formal complaints.

Student Supports

Residential Advisors and Academic Tutors have undertaken training to better support people who are concerned about any breach of the Respectful Relationships Policy.

You are of course welcome to seek advice from anyone in College you feel can assist. Lincoln College seeks to ensure that all College members are aware of this policy and can direct you to further support and information if needed.

Further Information

Lincoln College takes pride in developing policy that is evidence-based. Please contact the Dean if you have any queries (Jordan.bell@lincoln.edu.au)

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Policy updated November 2018

Authorised by Chief Executive Officer

Date to be reviewed: November 2019

With thanks to **St Andrews Respectful Relationships policy**

(http://policy.standrewscollege.edu.au/index.php/policy-documents/respectful-relationships/respectful-relationships-policy/#_Toc484441061)

With thanks to St Marks College Sexual Assault Policy and Sexual Harassment Policy

<http://www.stmarkscollege.com.au/policies/>