



Sexual misconduct policy

Drafted by:	Principal	Approved by Council on:	V.2, 1 December 2022
Responsible person:	Principal	Scheduled review date:	November 2023

1. Introduction

All members of the Jane Franklin Hall community have the right to live, study, socialize, meet and/or work in a safe and inclusive environment. Everyone regardless of their sex, sexual orientation, gender identity, race, ethnicity, religion or abilities has a role in creating and maintaining such an environment.

The College takes a zero-tolerance towards sexual misconduct. It is committed to providing training and awareness-building activities to prevent sexual misconduct. The College is also committed to responding promptly and appropriately where issues of sexual misconduct may have occurred.

2. Purpose

This policy outlines the College's commitment towards incidents of sexual misconduct involving members of the College community. The policy focuses on the safety and wellbeing of members of the College community and takes a trauma-informed approach to managing allegations of sexual misconduct.

3. Application

This policy applies to:

- 3.1 Everyone who can be reasonably considered as being connected to the current College community: residents, non-resident members, staff, tutors and volunteers including but not limited to Council, Fellows, Chaplains and Council sub-Committee members;
- 3.2 Visitors to the College;
- 3.3 Conduct which:
 - 3.3.1 occurs on land or property owned or occupied by Jane Franklin Hall;
 - 3.3.2 occurs in relation to any project, program or event which has a significant connection to the College;

- 3.3.3 has the potential to affect a community member's suitability to continue as a member of the College having regard to the wellbeing and safety of the College community;
- 3.3.4 occurs through online communications such phones, computers, social media or other communication platforms and devices.

4. Policy Principles

- 4.1 All members of the College community have the right to expect respectful behaviour from others and have personal responsibility to behave respectfully towards others.
- 4.2 All members of the College community have a duty to take all reasonable steps to prevent and report sexual misconduct.
- 4.3 All members of the College Community will demonstrate behaviours which are consistent with the Jane values and the Code of Conduct.
- 4.4 All students of the College who are also students of the University of Tasmania must comply with the University of Tasmania Behaviour Policy and Procedure.
- 4.5 A conflict of interest arising from a personal relationship between a Senior Member of the College and a student with whom there is direct professional relationship must be appropriately, transparently managed by the Senior member and notified immediately to their supervisor or to the Principal.
- 4.6 Development of a close personal or intimate relationship between a Senior Member of the College and a student with whom there is a professional relationship is not appropriate, although Senior Residents may be exempt in certain circumstances which should be discussed with the Dean of Students.
- 4.7 Care and consideration for a person's wellbeing will always be the primary focus of the College in responding to any disclosure or complaint of sexual misconduct.
- 4.8 The College may take action it considers necessary to ensure the immediate safety and wellbeing of all community members.
- 4.9 Procedures to support disclosures and formal complaints of sexual misconduct will be simple and accessible.
- 4.10 College community members will be active in speaking up and reporting incidents of sexual misconduct.
- 4.11 Complainants will be fully informed of their available reporting and support options.
- 4.12 The confidentiality and privacy of parties involved in a disclosure or complaint will be maintained to the extent possible, noting that the College may need to inform key personnel at the College, the University of Tasmania or Tasmania Police to progress a matter, to ensure the safety of

individuals or the wider community and/or comply with mandatory reporting obligations at law or University reporting obligations.

- 4.13 Under the Tasmanian *Children, Young Persons and Their Families Act 1997*, the College is required to make a mandatory report to Tasmania Police or to share information with other mandatory reporters where the complainant is aged under 18.
- 4.14 Complaints will be dealt with promptly, noting that sometimes timeframes need to be extended for matters that are more complex or more serious.
- 4.15 The College will not tolerate victimization or retaliation against a complainant or a respondent, or a support person of either a complainant or a respondent.
- 4.16 The College will provide student and staff members access to education and awareness campaigns with the aim of preventing and responding appropriately to sexual misconduct.
- 4.17 College community members who engage in sexual misconduct may face disciplinary action which could impact on the continuation of their place at the College.
- 4.18 Disciplinary action includes but is not limited to: suspension; expulsion; exclusion from College grounds and events; removal of rights and privileges including removal of leadership positions or scholarships; official warnings; exclusion from areas of the College; counselling or training; termination of employment.
- 4.19 All members of the College community are expected to familiarize themselves with the sexual misconduct policy and procedures.

5. Definitions

Terminology	Definition
College	Jane Franklin Hall, 6 Elboden Street, South Hobart Tasmania
College community	Residents, non-resident members, staff, tutors and volunteers including but not limited to Council, Fellows, Chaplains and Council sub-Committee members.
Complainant	A person who makes a disclosure or a formal complaint of sexual misconduct. The College understands that people who experience sexual misconduct may refer to themselves as a complainant, victim or survivor. For the purposes of this policy, the term “complainant” is used. However, the College respects and supports the right for

	individuals to use the term with which they feel most comfortable.
Consent	<p>Consent means agreeing to something. For someone to do this they must be old enough to understand what it is they are giving consent to. To say 'Yes' they must be free to also say 'No' – therefore, someone cannot be pressured into giving their consent. Someone cannot freely consent if they are drunk, drugged, unconscious or asleep. It is also not consent if they are forced, tricked, or threatened into having sex. If you have sex with someone who is unable to freely consent, this is sexual assault, which is a serious crime.</p> <p>Anyone can withdraw their consent at any time – it doesn't matter if you've already started to have sex. If one person isn't into the sexual activity, then you have to stop¹.</p>
Disclosure	A reported issue that is not intended to be a formal complaint. In such a case, the College offers information, support and advice to the complainant but no outcome from the College is expected.
Formal complaint	A written complaint made by a complainant to the College of an act of sexual misconduct experienced by the complainant. In such a case, the complainant wishes for the College to act in relation to the complaint and is seeking an outcome from the College.
Mandatory reporters	People who are legally obliged to report child abuse or neglect are sometimes called 'mandatory reporters' or 'prescribed persons'. They include medical practitioners, nurses, dentists, police officers, psychologists, probation officers, child welfare officers, school principals, ministers of religion, teachers, kindergarten teachers, people who manage childcare services and people employed by or volunteering in government agencies or organisations funded by the Crown that provide health, welfare, education, or care for children ²
Respondent	A person who has allegedly perpetrated sexual assault or sexual harassment.

¹ Tasmanian legal aid for Tasmanians. 2021. *Fact sheet – Consent to sex*. Retrieved from <https://www.legalaid.tas.gov.au/factsheets/consent-to-sex/>

² Department of Communities Tasmania. 2021. Reporting Concerns. Retrieved from https://www.communities.tas.gov.au/children/child_protection_services/what_can_i_expect_when

Senior Member of the College	Staff members, including Senior Residents and Tutors, Members of Council, Fellows, Chaplains and members of Council Sub-committees.
Sexual assault	Centres Against Sexual Assault Forum defines sexual assault as any behaviour of a sexual nature that makes someone feel uncomfortable, frightened, intimidated, or threatened. It is sexual behaviour that someone has not agreed to, where another person uses physical or emotional force against them. It can include anything from sexual harassment through to life threatening rape. ³
Sexual harassment	<p>If it feels like sexual harassment, chances are it is.</p> <p>Sexual harassment is unwelcome conduct of a sexual nature that occurs in circumstances where a reasonable person would anticipate the possibility of the person being offended, humiliated or intimidated. Conduct of a sexual nature includes making a statement of a sexual nature to, or in front of, a person, and it can be spoken or in writing. It can be a one-off incident, or it can happen more than once.⁴</p> <p>Sexual harassment can include but is not limited to:</p> <ul style="list-style-type: none"> • uninvited physical contact such as touching, brushing up against, kissing, massaging or hair stroking • asking a person (either verbally or in writing) if they would like to have sex or to 'get closer' • making comments with sexual connotations, such as telling someone they 'look sexy', saying 'you're not getting enough', talking about one's own sexual urges or needs, or telling smutty jokes • asking about or commenting on a person's sex life • gesturing, staring or leering at breasts or groin area • stalking or paying unwelcome attention to a person

³ Victorian Centres Against Sexual Assault (CASA) Forum. 2014. *Factsheet – CASA Forum Victorian Centres Against Sexual Assault What is Sexual Assault*. Retrieved from <https://casa.org.au/assets/Documents/What-is-sexual-assault2.pdf>

⁴ Fair Work Commission, Retrieved from <https://www.fwc.gov.au/issues-we-help/sexual-harassment/what-sexual-harassment-work> 15 November 2022

	<ul style="list-style-type: none"> communicating sexually explicit material (including emoji's) in person or through phone calls, online interaction, email, social media or text messages. <p>The key issue is how the behaviour makes the person feel and whether it is unwelcome⁵</p>
Sex based harassment	<p>Unlike sexual harassment, sex-based harassment is not directed towards a particular person. Instead, it creates a hostile workplace environment based on sex or gender. Sex-based harassment is unwelcome conduct of a seriously demeaning nature by reason of the person's sex, that results in a person or group feeling offended, humiliated, or intimidated. Sex-based harassment can include:</p> <ul style="list-style-type: none"> commenting about or verbally abusing a person or group because of their gender ignoring, isolating or segregating a person or group because of their gender displaying obscene or pornographic materials; engaging in general sexual banter, sexual innuendo or making offensive jokes based on sex; referring to a transgender person by their previous name or gender; referring to a gender fluid or non-binary person by their previous pronoun or gender.
Sexual misconduct	<p>Inappropriate, behaviour, conduct or activity of a sexual nature including sexual assault, sexual harassment (SASH) and sex-based harassment It may be used to describe activity of a sexual nature that is not of itself harassment or sexual assault. For example, consensual activity between a staff member and a student may be regarded as sexual misconduct. Other examples, include but are not limited to:</p> <ul style="list-style-type: none"> sexting creating and distributing sexually explicit photos or films without consent stalking drink spiking acts of indecency or sexual exploitation. <p>Sexual misconduct can occur between strangers or between people who know each other well, including</p>

⁵ Equal Opportunity Tasmania 2021. *Sexual Harassment*. Retrieved from https://equalopportunity.tas.gov.au/html_version/sexual_harassment

	<p>those involved in a consensual intimate relationship. It can also be a single incident or repeated/continuous behavior.</p> <p>Behaviour that is consensual and based on mutual attraction, friendship and respect is not sexual misconduct.</p>
Support person	Any person to whom a disclosure is made and all residents and/or staff members involved in the support process.
University	The University of Tasmania

6. References

- Jane Franklin Hall Code of Conduct
- Jane Franklin Hall, Statement on the College Culture
- University of Tasmania Behaviour Policy
- University of Tasmania Behaviour Procedure
- *Children, Young Persons and Their Families Act 1997 (Tas)*
- *Criminal Code 1924 (Tas)*
- *Sex Discrimination Act 1984 (Commonwealth)*
- Sexual Assault Support Services (SASS), brochure, *What are my Options?*
- Victorian Centre Against Sexual Assault (CASA) Forum. Factsheet – CASA Forum Victorian Centre Against Sexual Assault, *What is Sexual Assault?*
- Equal Opportunity Tasmania, website, Sexual Harassment
- Tasmanian legal Aid Commission, website, Fact sheet – Consent to sex.
- Department of Communities Tasmania, website, Reporting Concerns.
- Fair Work Commission, website, Sexual Harassment Definition



Sexual misconduct policy procedures

1. Purpose

This procedure describes the processes for reporting and resolving disclosures and complaints about alleged sexual misconduct involving a member of the College community.

2. Applicable governance instruments

- Jane Franklin Hall Sexual Misconduct Policy
- Jane Franklin Hall Code of Conduct
- Jane Franklin Hall, College Obligations and Terms of Residence (COTR)

3. Application and definitions

All applications and definitions as described in the Jane Franklin Hall *Sexual Misconduct Policy* are applicable to these procedures.

4. Reporting incidents of sexual misconduct

4.1 Any person may make a disclosure or a complaint of sexual misconduct regarding a member of the College community.

4.2 Whether a person makes a disclosure or a complaint is dependent on the outcome the complainant wishes to occur.

4.3 The procedures related to making a disclosure or a complaint differ and are outlined in the following pages.

4.4 Instances of sexual misconduct reported to the College will be handled sensitively, discretely, fairly, objectively and without bias.

4.5 Counselling support services will be offered throughout the reporting process, irrespective of whether the complainant makes a disclosure or a formal complaint. Counselling will also be offered to respondents and support persons.

4.6 The College encourages anyone who has experienced or witnessed an act of sexual misconduct to seek support as soon as possible.

4.7 Support can be given by anyone at the College, although complainants are encouraged to talk to a Senior Resident, the Dean of Students, the Principal or an external counselling and advice service.

4.8 Recommended external advice services include but are not limited to: the University Safe and Fair Community Unit (SaFCU); Sexual Assault Support Services (SASS); University of Tasmania Counsellor; Lifeline; Beyondblue; or to Tasmania Police (see contact details on page 6 of this procedure).

4.9 The confidentiality and privacy of complainants and respondents will be maintained where possible, noting that the College also has reporting obligations to the University and, in the case of complainants under 18 years of age, to Tasmania Police.

4.10 All records and information generated during a disclosure or formal complaint are stored confidentially by the College.

4.11 The College may need to speak with others to progress a matter, to comply with obligations at law, or to implement appropriate safety measures. As far as possible, the complainant will be spoken to prior to the required action being taken.

4.12 For complainant's over 18 years of age, the complainant may choose to report the matter to the police. The College cannot do this on the complaint's behalf, although it can provide support to the complainant to make a police report. For complainants under 18, the College must report the matter to police.

4.13 The opportunities for the College to provide appropriate support and identify and respond to risks and incidents may be limited if:

- A report is made anonymously 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.

4.14 If a complaint is made directly to an external agency such as the University of Tasmania or the Tasmania Police, the College may also take action to ensure the safety and wellbeing of the community.

4.15 In some cases the College may itself decide to initiate a complaint.

5. Making a disclosure

5.1 A disclosure is not a formal complaint. It can be a way for a complainant to raise an issue and seek support or advice on possible reporting options.

5.2 At the College, disclosures can be made to any member of our community, although complainants are encouraged to raise the matter with any Senior Resident, the Dean of Students or the Principal.

5.3 The Dean of Students and/or the Principal will be notified of any disclosures made to Senior Residents or other staff, although the level of detail passed on will depend on the complainant's wishes.

5.4 Details of complaints are taken and stored confidentially.

5.5 When a disclosure is made the College can:

- Assist with information and referral to available support and advocacy services; and/or
- Advise the complainant of options for possible further action;
- Provide information about College policies.

5.6 Unless deemed essential for safety reasons, the College will take no other action unless a formal complaint is made to the College.

5.7 A support person, or those who have witnessed or have knowledge of an act of sexual misconduct can also make a disclosure.

6. Making a formal complaint

6.1 It is not necessary for a complainant to have made a disclosure before submitting a formal complaint.

6.2 Formal complaints are dealt with by the Dean of Students and the Principal. In the event of their unavailability or of a conflict of interest (including if a complaint involves one of these two people), a Council member will step in.

6.3 A support person, or those who have witnessed or have knowledge of an act of sexual misconduct cannot make a formal complaint. However, a support person can assist a complainant to make a formal complaint.

6.4 A formal complaint must be made to the Principal or the Dean of Students in writing via email or letter.

6.5 A complainant is free to change their mind about the formal complaint at any time, including to withdraw it. That decision will be respected and the College will continue to provide support, information and advice to the complainant.

6.6 The College will respect the wishes and choices of the complainant as to how the matter is dealt with to the furthest extent possible. However, as part of its commitment to providing a safe place for residents and staff to live, work and study, the College may take any necessary action to avoid foreseeable risk of harm to members of the College community.

6.7 In some cases it may be necessary to take precautionary measures upon the receipt of a formal complaint of sexual misconduct. This is to ensure:

- the safety and wellbeing of the complainant and the College community; and/or
- all reasonable risks of victimization or further inappropriate behaviours are removed; and/or
- the integrity or confidentiality of any process under these procedures; and/or

- reduce negative impacts on the College's reputation or on the reputation of any member of the College community.

6.8 Precautionary measures include but are not limited to: separation of parties to the complaint; suspension or expulsion from the College; exclusion from College grounds and activities; directions to resign from leadership positions.

6.9 The Crisis Management Committee (CMC) will make decisions about the suspension or expulsion of the respondent and/or the respondent's associates from College in relation to a formal complaint. The CMC is a sub-committee of the Jane Council comprising the Chair of Council, the Deputy Chair of Council, the Principal and other members as appointed on a regular basis.¹

6.10 In the event that a suspended respondent is cleared of allegations, the CMC will determine if the respondent can return to College.

6.11 In making its decision the CMC will consider a range of matters including but not limited to: the findings of the formal investigation; College safety and wellbeing; the complainant's circumstances; the likelihood of another formal complaint being laid; the respondent's past behaviour while at College including compliance with the Code of Conduct.; the safety and wellbeing of the respondent.

6.12 Precautionary measures do not in any way prejudice the outcome of an investigation.

7 Processes once a formal complaint is received

7.1 STEP ONE: Initial assessment

- 7.1.1 The Dean of Students or Principal will promptly acknowledge receipt of the complaint, acknowledge the complainant's experience and offer counselling.
- 7.1.2 The Dean of Students will raise a casefile to keep records of all matters related to the complaint.
- 7.1.3 The Dean of Students and/or Principal will promptly and fairly conduct an initial assessment with the intention of determining if and what precautionary measures are required.
- 7.1.4 The Principal, or the Dean of Students in the Principal's absence, will inform the Chair of Council.
- 7.1.5 Where a serious matter occurs and involves one or more members of the University of Tasmania community, the Principal will inform the University. In the Principal's absence the Dean of Students will inform the University.

¹ Further information on the composition of the CMC can be found in the College Handbook at <https://jane.edu.au/residents/downloads/current-resident-information/>

7.2 STEP TWO: Precautionary measures

- 7.2.1 Where it is possible that a precautionary measure is the suspension or expulsion of a student(s) from College, the Principal, with the Chair's agreement, will convene a meeting of the CMC.
- 7.2.2 The CMC will decide if a student should be suspended or expelled from the College.
- 7.2.3 If the respondent is suspended or expelled from the College, the respondent will be accommodated at the College's expense offsite for a period of up to two weeks to enable the respondent to find alternative accommodation. From the date of removal from the College, all fee payments at Jane will cease and any prepaid fees will be refunded from the date of removal with no penalty.
- 7.2.4 The respondent will be offered counselling.
- 7.2.5 In the event that a respondent is suspended from College as a precautionary measure, the College will maintain contact with the respondent until the matter is resolved by a formal investigation.

7.3 STEP THREE: Formal Investigation

- 7.3.1 To reduce the risk of conflict of interest, the College may not investigate a formal complaint of sexual misconduct itself.
- 7.3.2 Should the complainant choose a resolution via criminal law, the College will support the complainant to contact the police.
- 7.3.3 If the complainant does not wish to take the matter to the police, the College may refer the investigation to an external agency. This may be SaFCU or where appropriate other external investigators, noting that external agencies are only able to investigate potential breaches of its own or the College's policies.
- 7.3.4 The College will render full assistance to any external investigation including but not limited to providing contact details of the respondent and of potential witnesses.
- 7.3.5 In the event that an investigation is outsourced, once it is underway, the College's role will become one of ongoing support and communication with the complainant and the respondent.

7.4 STEP FOUR: Post Investigation

- 7.4.1 If a complaint against a suspended or expelled respondent is upheld the respondent will not be allowed to return to College.
- 7.4.2 If an investigation concludes that the complaint is unsubstantiated or there is no case to answer, the Principal will, with the Chair of Council's agreement, convene the CMC who will determine if it is

appropriate for a suspended or expelled respondent to return to College.

- 7.4.3 At the conclusion of any investigation, regardless of the outcome, the College may take either disciplinary or preventative action to ensure the continued wellbeing of the College community.
- 7.4.4 Consequences for breaches of the sexual misconduct policy will be determined on the basis of the investigation conclusions and recommendations, seriousness of the alleged conduct, the community member's past behaviour and the wellbeing and safety of the College community.
- 7.4.5 If an investigation concludes the complaint is malicious or vexatious, disciplinary action may occur.

8. Timeliness

8.1 The College will use its best endeavours to act and respond to all matters within its control in a timely manner.

8.2 In situations outside the College's control, such as an external investigation, the College will endeavour to keep all parties informed as far as possible and will continue to provide support.

9. Other situations

9.1 Where either the complainant or the respondent is not a member of the Jane community, the College may act according to these procedures to ensure the safety and wellbeing of College Community members. Such action may include but is not limited to: providing support, taking precautionary measures or applying disciplinary measures.

10. Review

10.1 At the latest, these procedures will be reviewed at the same time as the review of the Sexual Misconduct policy is undertaken.

External advice contact details

University of Tasmania

- Safe and Fair Community Unit (SaFCU) 6226 2560 OR
SaFCU@utas.edu.au
- Counsellor 1800 817 675
- After Hours counsellor 1300 511 709
text on 0488 884 168

Sexual Assault Support Services (SASS)

- During business hours 6231 0044
- SASS 24-hour crisis support
(1800 697 877) 1800 MYSUPPORT

Lifeline

13 11 11

Beyondblue

1300 22 46 36

Tasmania Police (non-emergencies)

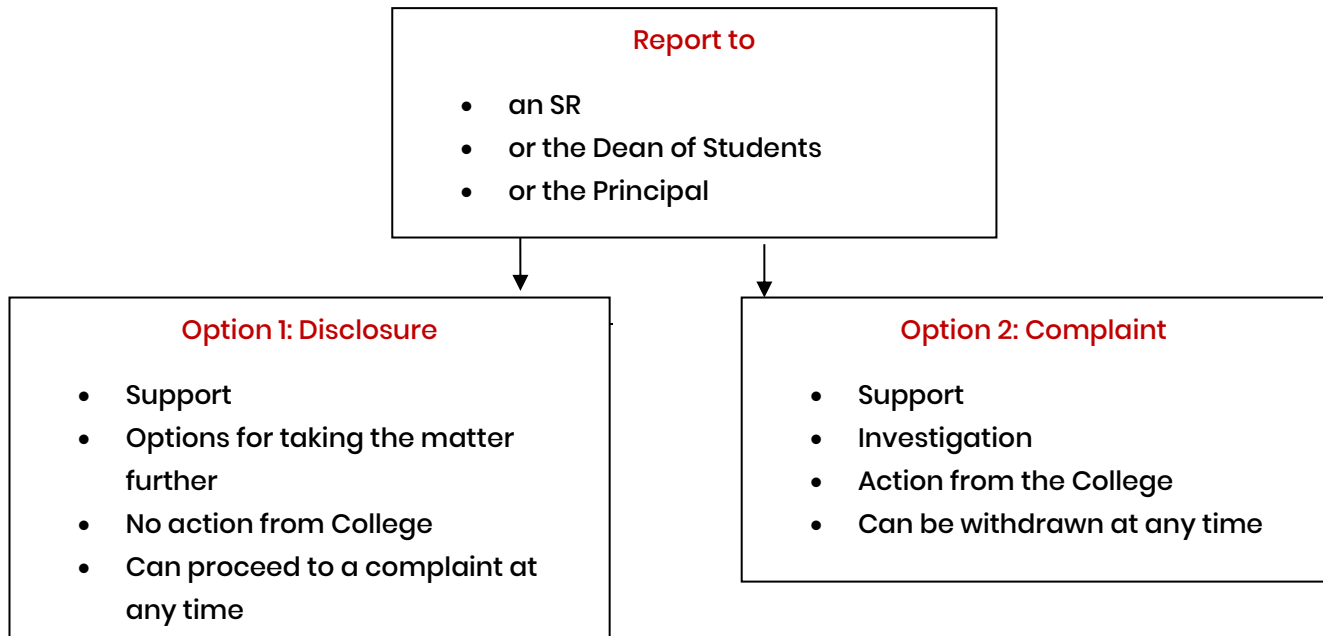
131 444

Emergencies 000

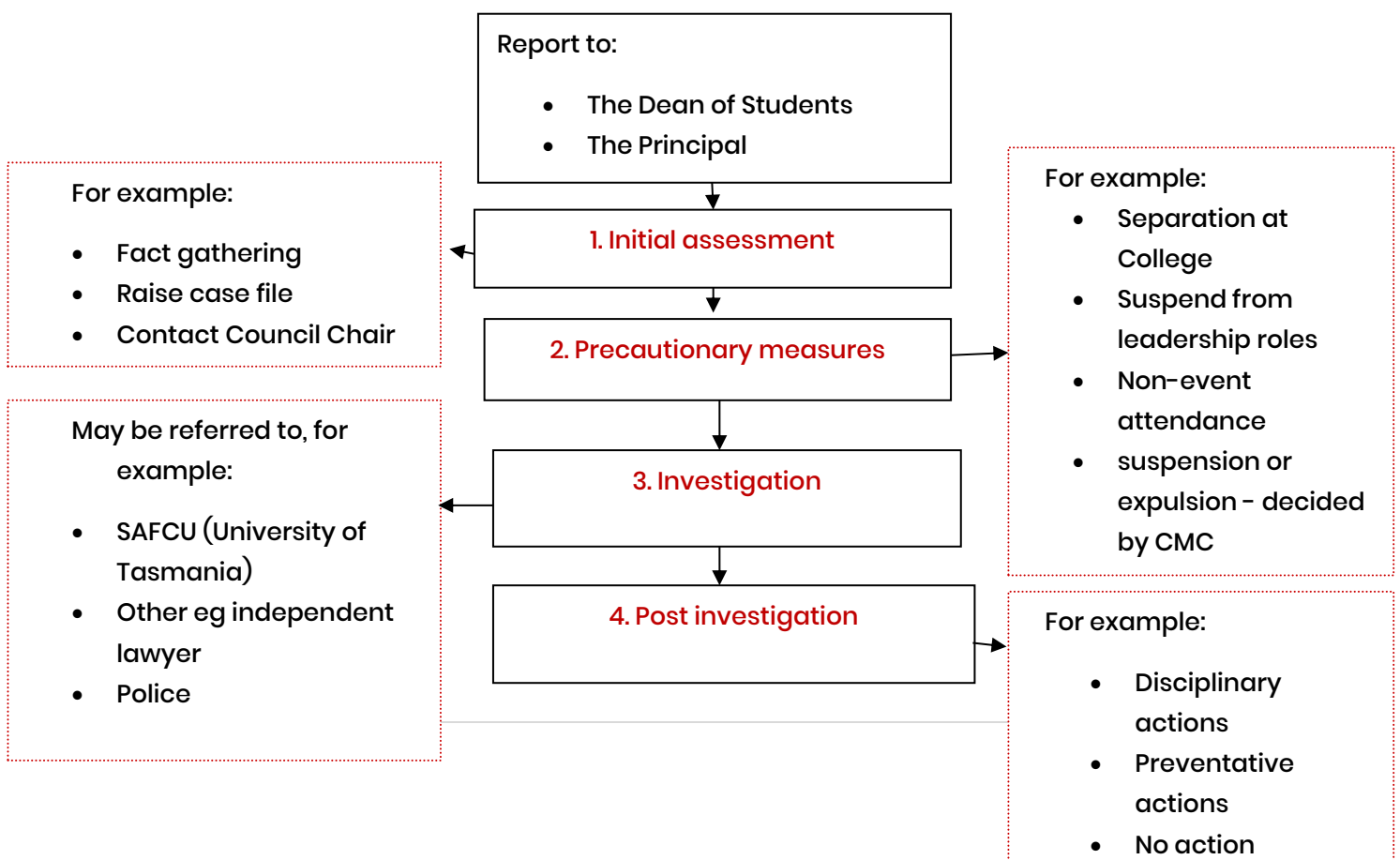


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Procedures for Reporting Sexual Misconduct



Procedures in making a complaint



Sexual Misconduct:

External advice contact details

University of Tasmania

- Safe and Fair Community Unit (SaFCU)
 - SaFCU@utas.edu.au
 - Counsellor
 - After Hours counsellor
- 6226 2560
1800 817 675
1300 511 709
text on 0488 884 168

Sexual Assault Support Services (SASS)

- During business hours
 - SASS 24-hour crisis support
- 6231 0044
1800 MYSUPPORT (1800 697 877)

Lifeline

13 11 11

Beyondblue

1300 22 46 36

Tasmania Police (non-emergencies)

131 444

EMERGENCIES 000



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