

## 1 POLICY STATEMENT AND PURPOSE

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ICHM is committed to providing a safe and respectful working and learning environment that supports the rights of all persons within ICHM community to work and study in a safe environment, free from sexual harassment and/or assault.

ICHM takes reasonable steps to minimise the risk of discrimination, harassment or assault from occurring. ICHM has zero tolerance and will take appropriate disciplinary action against any staff member or student who engages in such behaviour.

This policy defines what constitutes sexual harassment and/or assault and provides a framework of measures to prevent and respond to sexual harassment and/or assault.

ICHM provides and implements sexual harassment/assault training and awareness raising strategies to ensure that all students know their rights and responsibilities, including the penalties for those students who fail to take appropriate action to prevent sexual harassment/assault occurrence or continuation of such behaviour.

## 2 SCOPE

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This policy applies to all ICHM students including those that are attending ICHM offshore partner colleges.

## 3 DEFINITIONS

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**ICHM** refers to International College of Hotel Management

**Student** is defined as those attending at the Regency Park location or those attending offshore colleges where an ICHM program is delivered.

**Staff member** is defined as any person who is employed by ICHM in any capacity or is contracted to ICHM in any capacity to carry out work for ICHM either paid or unpaid basis.

**RIH** means Regency International House and is onsite student accommodation.

## 4 POLICY DETAILS

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### 4.1 What is Sexual harassment?

Sexual harassment is defined in the [Sex Discrimination Act](#) as an unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature, which, in the circumstances, a reasonable person would anticipate the possibility that the recipient would feel offended, humiliated or intimidated.

Sexual harassment can take various forms and may be obvious or indirect, physical or verbal. It also includes behaviour and conduct which create a sexually hostile or intimidating environment. Sexual harassment may include:

- Staring or leering;
- Unnecessary familiarity, such as deliberately brushing up against a person or unwelcome touching;
- Suggestive comments or jokes;
- Insults or taunts of a sexual nature;
- Intrusive questions or statements about your private life;
- Displaying posters, magazines or screen savers of a sexual nature;
- Sending sexually explicit emails or text messages;
- Inappropriate advances on social networking sites;
- Accessing sexually explicit internet sites;
- Requests for sex or repeated unwanted requests to go out on dates; and
- Behaviour that may also be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

Sexual harassment does not have to be repeated or continuous to be against the law. Some actions or remarks are so offensive that they constitute sexual harassment in themselves, even if they are not repeated. Other single incidents, such as an unwanted invitation or compliment, may not be harassment if they are not repeated.

Sexual harassment is unlawful even if the person who harassed has no sexual interest in the person being harassed. Conduct may constitute sexual harassment even if the parties involved are of the same sex and regardless of their sexual preference.

Sexual harassment may occur even if it is not intentional. It is the impact of the behaviour on the person concerned not the intention of the 'harasser'.

Sexual harassment can be the result of:

- Single incident;
- A series of incidents over a period of time; or
- The environment.

Sexual harassment can occur in any work-related or educational context, at a college campus, residence or facility, be it owned or leased; a college event, function or activity; while using college equipment be it owned or leased such as communications technologies, facilities; participating in any activity as a representative or student of the college such as field trips, inter-college events, conferences, practicums; as well as carrying out functions in connection with the College, including at places that are external to College premises such as a hotel, business, a private residence or in the street.

#### 4.1.1 What is reasonable?

The law further defines sexual harassment as unwelcome sexual behaviour or conduct that a reasonable person would anticipate the possibility in the circumstances that the other party would be offended, humiliated and/or intimidated.

Circumstances to be considered also depend on factors such as sex, age, sexual orientation, gender identity, intersex status, marital or relationship status, religious belief, race, colour or national or ethnic origin, whether any physical or other impairment and the nature of the relationship between the people involved.

#### 4.1.2 What is not sexual harassment?

Sexual harassment has nothing to do with mutual attraction, friendship, or respect. Where sexual interaction, flirtation, attraction, or friendship is invited, mutual, consensual or reciprocated, it is not considered to be unwelcome and is NOT sexual harassment.

It is not unlawful to commence a personal relationship with a colleague or a student (provided the student has reached the age of consent) if both parties are consenting. A consensual sexual relationship, however, does not preclude the possibility of sexual harassment following the end of a relationship.

It is **NOT** permissible for an employee of ICHM to enter a relationship with a student as outlined in the ICHM Staff Code of Conduct Clause 15, and any breach of this may lead to termination.

## 4.2 Sexual Assault

If sexual harassment includes behaviour that causes humiliation, pain, fear, or intimidation, it can also amount to sexual assault. Some forms of sexual harassment, such as rape, assault of a sexual nature, acts of gross indecency and sexual intercourse without consent, indecent exposure, stalking or unlawful observations and recordings in breach of privacy or obscene communications are also criminal offences and should be reported to the Police.

## 4.3 Consent

For any act to be consensual, both parties need to be in full agreement and understand what the physical act/s involve, their meaning, society's laws and cultural norms, and possible consequences. Consent is to be freely given and that all parties have the legal competence to freely give consent and are not affected by intoxication by means of alcohol or drugs.

It is unlawful, even if it is consensual, to take part in sexual acts with a person who is under the age of consent.

#### 4.3.1 Age of Consent

Age of consent laws attempt to strike a balance between protecting children and young people from exploitation and other harms and preserving their right to privacy and healthy sexual development. Young people at the age of consent are viewed by law to have general sexual competence to enforce personal boundaries and negotiate the risks involved in sexual activities. When an adult engages in sexual behaviour with someone below the age of consent, they are committing a criminal offence (child sexual abuse).

The difference between child sexual assault and adult sexual assault is that adult sexual assault is based on the absence of sexual consent, whereas in child sexual assault, the issue of consent is superseded by age of consent laws. There is a distinct difference between a child's willingness to engage in sexual behaviour and the age of consent which determines they do not have the decision-making capacity to

give consent, and this deems it unlawful.

The legal age of consensual sex varies across Australian state and territory jurisdictions. The age of consent is 16 years of age in the Australian Capital Territory, New South Wales, Northern Territory, Queensland, Victoria, and Western Australia. In Tasmania and South Australia, the age of consent is 17 years of age.

#### 4.3.2 Equality and coercion

Equality relates to the balance of power and control between those involved in sexual activities. A reasonable degree of equality needs to exist between the parties engaged in sexual activities, whether that pertains to relationships, physical and/or intellectual capacity, or age.

Coercion can be described as the pressure put on one person by another to achieve compliance.

ICHM does not tolerate coercion of any kind from either students or staff to gain sexual favours.

## 4.4 Training and Education

Consent training is mandatory for all students and staff and will be recorded on student and staff files.

First Response training will be conducted for all staff who wish to attend, to ensure the correct process is adhered to, that will ensure the best outcome and experience for the student or staff who have suffered any form of sexual harassment or assault.

## 5 References

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[Sex Discrimination Act 1984](#) (Commonwealth)

ICHM Code of Conduct – Student and Staff versions

RIH Code of conduct

Equal Employment Opportunity Policy

[Crimes Act 1900 \(Section 55\)](#)

[http://www.austlii.edu.au/au/legis/nsw/consol\\_act/ca190082/](http://www.austlii.edu.au/au/legis/nsw/consol_act/ca190082/) Crimes Act 1900 (Section 66C) NSW

[http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/nt/consol\\_act/cca1983115/](http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/nt/consol_act/cca1983115/) Criminal Code Act 1983 - NT

[http://www.austlii.edu.au/au/legis/qld/consol\\_act/cc189994/](http://www.austlii.edu.au/au/legis/qld/consol_act/cc189994/) Criminal Code Act 1899- Qld

[https://www.legislation.qld.gov.au/Bills/55PDF/2016/B16\\_0068\\_Health\\_and\\_Other\\_Legislation\\_Amendment\\_Bill\\_2016E.pdf](https://www.legislation.qld.gov.au/Bills/55PDF/2016/B16_0068_Health_and_Other_Legislation_Amendment_Bill_2016E.pdf) Health and other Legislation Amendment Bill 2016 - Qld

[http://www.austlii.edu.au/au/legis/sa/consol\\_act/clca1935262/](http://www.austlii.edu.au/au/legis/sa/consol_act/clca1935262/) Criminal Law Consolidation Act 1935 - SA

[http://www.austlii.edu.au/au/legis/tas/consol\\_act/cca1924115](http://www.austlii.edu.au/au/legis/tas/consol_act/cca1924115/) Criminal Code Act 1924 - Tas

[http://www.austlii.edu.au/au/legis/vic/consol\\_act/ca195882](http://www.austlii.edu.au/au/legis/vic/consol_act/ca195882) Crimes Act 1958 - Vic

[http://www.austlii.edu.au/au/legis/wa/consol\\_act/ccaca1913252](http://www.austlii.edu.au/au/legis/wa/consol_act/ccaca1913252) Criminal Code Act Compilation Act 1913 – WA

[Anti-Discrimination Act 1991](#)(Qld)

[Anti-Discrimination Act 1977](#) (NSW)

[Anti-Discrimination Act 1992](#)(NT)

[Anti-Discrimination Act 1998](#) (TAS)

[Australian Human Rights Commission Act 1986](#) (Commonwealth)

[Discrimination Act 1991](#) (ACT)

[Equal Opportunity Act 1984](#) (SA)

[Equal Opportunity Act 2010](#) (VIC)

[Equal Opportunity Act 1984](#) (WA)

## 6 RESPONSIBILITIES AND AUTHORITIES

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### 6.1 Students

- 6.1.1 It is the responsibility of students to uphold the Personal Code of Conduct and adhere to the Sexual Harassment and Assault Policy.
- 6.1.2 Sexual harassment or assault is not tolerated at ICHM and must be reported to either the Senior Student Counsellor and Welfare Advisor or Program Director Academic or Industry and Career Development Manager or any other employee of ICHM that the student feels comfortable with.
- 6.1.3 Any incident of this nature will be considered a critical incident and the Critical Incident Policy (External) will be followed. The affected student(s) will also have access to the Non-Academic Grievance Policy & Procedure.
- 6.1.4 A student has the right to feel safe and protected within all ICHM environments and as such has the right to determine the next steps in the process insofar as reporting the incident to the police.
- 6.1.5 A student has the right to expect that there will be no reprisals for reporting any incidents of sexual harassment or assault.
- 6.1.6 A student will be supported after the incident and through the steps of the critical incident procedure or legal procedure as applicable.
- 6.1.7 A student who is not a victim but a third party, can report an incident of sexual harassment or assault to the appropriate ICHM employee without fear of reprisal and will be supported throughout the process, if applicable.
- 6.1.8 Support will be offered and is available to all students who are involved or who are aware of any incidents of a sexual harassment or assault.
- 6.1.9 Should a student be affected by sexual harassment or assault, they will be supported within their academic program.
- 6.1.10 It is the responsibility of all students to keep any information regarding sexual harassment or assault confidential.

### 6.2 Staff

- 6.2.1 It is the responsibility of all staff to uphold the Code of Conduct with respect to relationships with students.
- 6.2.2 A staff member who has had a sexual harassment or assault incident reported to them is responsible for ensuring that the Senior Student Counsellor and Welfare Advisor and Program Director Academic are aware of the incident.
- 6.2.3 All staff are responsible for adhering to and following the Critical Incident Policy (External).
- 6.2.4 All staff are responsible for providing the correct level of support to a student or students, if appropriate or applicable.
- 6.2.5 All information pertaining to sexual harassment or assault incidents, reports or legal process is to be treated as confidential.
- 6.2.6 Academic teaching staff will provide the appropriate level of academic support to a student who is affected by a sexual harassment or assault incident, if applicable.
- 6.2.7 Training will be available for student facing activities or for staff who wish to attend to ensure the correct process is being following to ensure the best outcome and experience for the student.

## 7 REVIEW

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The Chief Executive Officer is responsible for the review of this policy on a three (3) yearly basis or as and when there are any legislative or business changes.

## 8 ACKNOWLEDGEMENT (if applicable)

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ICHM acknowledges the support and approval of Charles Darwin University to adopt the Sexual Harassment Prevention Policy provided at <https://www.cdu.edu.au/governance/doclibrary/pol-066.pdf> and the use of this as the basis for the development of this policy.

## 9 APPROVAL

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<b><i>Sexual Harassment and Assault Prevention Policy</i></b>	
<b>Policy Owner</b>	Chief Executive Officer
<b>Version Number</b>	1.1
<b>Approval Authority</b>	College Council
<b>Approval Date</b>	03/03/2022
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December 2019	1.0	Creation of new policy	College Council	10/12/19
March 2022	1.1	Minor title amendments, template update	College Council	03/03/2022