

SEXUAL ASSAULT & SEXUAL HARRASSMENT POLICY

Dates	Approved Effective	7 September 2021 7 September 2021
Approved by	Executive Leadership Team	
Author	Registrar / Human Resources	
Related documents	Student Code of Conduct Staff Code of Conduct NAS Disciplinary Policy	



TABLE OF CONTENTS

1	INTRODUCTION	3
1.2	DEFINITIONS	3
1.3	PRINCIPLES.....	5
1.4	SCOPE & REMIT	6
2	MAKING A DISCLOSURE	6
3	MAKING A FORMAL REPORT	7
4	MONITORING AND REVIEW	8
5	TRAINING AND EDUCATION	8
	SOURCE & REFERENCE DOCUMENTS	9
	VERSION CONTROL AND CHANGE HISTORY	9



1 INTRODUCTION

The National Art School (NAS) is committed to providing a safe and inclusive environment for all students, staff and members of the public. As such, any form of sexual assault or sexual harassment is unacceptable in the National Art School community, and any such behaviour would be considered misconduct under the codes of conduct for both students and staff.

This policy does not replace the codes of conduct or disciplinary policies for either staff or students but instead provides specific guidance and procedures relating to sexual assault and/or harassment with the aim of providing a concise, clear and appropriate institutional approach to dealing with sexual assault or sexual harassment.

In dealing with any form of disclosure and/or formal reporting of sexual assault or sexual harassment, the safety and well-being of the person making the disclosure and/or report is the National Art School's first priority.

1.2 DEFINITION

Sexual Assault

Sexual assault occurs when a person is forced, coerced or tricked into sexual acts against their will or without their consent, or if a child or young person under 18 is exposed to sexual activities

Sexual Harassment

Sexual harassment can take many forms, both physical and non-physical. Sexual harassment may include:

- staring or leering
- unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching
- suggestive comments or jokes
- insults or taunts of a sexual nature
- intrusive questions or statements about someone's 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
- behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications and
- any other behaviour that may be considered sexually inappropriate by another person

Balance of probabilities

The standard of proof required under these procedures. 'Balance of probabilities' means what, according to the evidence, is most likely to have happened.



Consent

Consent occurs when a person freely and voluntarily agrees to sexual contact and/or intercourse. Sexual assault occurs when someone does not or is unable to give consent. The law says that a person is unable to give consent when:

- asleep or unconscious
- significantly intoxicated or affected by drugs
- unable to understand what they are consenting to due to their age or intellectual capacity
- intimidated, coerced or threatened
- unlawfully detained or held against their will
- they submit due to the person being in a position of trust.

School activity

Any activity organised by the School or activity organised by staff of the School in relation to the business of the School.

Staff

Anyone employed by the School, whether casually, permanent or under a contract.

Student

Anyone enrolled in a unit of study, including short courses.

Misconduct

Behaviour outside the expectations set in the codes of conduct

Visitor

Anyone on site who is not a member of staff or a student, including contractors and those working on site but not for NAS.

Campus / Site

The School Campus is defined at the Old Darlinghurst Gaol site and Annex.

Disclosure

A disclosure is the sharing of information with regard to a sexual assault or harassment with another person.

Formal Report

A Formal report is the providing of a formal complaint of sexual assault or harassment to NAS with the aim of action being taken.

Natural justice

Natural justice & procedural fairness

Principles of fairness, impartiality and equity. (see 1.3.4 for more information)

First responder

The staff member receiving a disclosure or formal report.

Disciplinary Committee

A committee formed by the School to hear a disciplinary case, determine what (on the balance of probabilities) is most likely to have occurred and to determine and course of action.



Disciplinary Action

Where a disciplinary committee determines misconduct, they will recommend a course of action.

1.3 PRINCIPLES

In dealing with any disclosure or report the National Art School's approach is guided by the following principles:

1.3.1 SAFETY & WELLBEING

In dealing with any form of disclosure and/or formal reporting of sexual assault or sexual harassment, the safety and well-being of the person making the disclosure and/or report is the National Art School's first priority.

NAS is committed to providing appropriate support and assistance to students who have experienced sexual assault and/or sexual harassment and endeavours to inform students and staff of the support and assistance available to them.

1.3.2 COMPASSION

NAS will deal with all disclosures and formal reports compassionately.

There is no one single way that sexual assault and sexual harassment can impact those who have experienced such things and as such there is no one single way in which a person may react or feel. First responders or those who have received disclosures/ formal reports play a key role in helping an individual through what is often a very traumatic experience.

Compassionate and empathetic responses to disclosures which validate the person's experiences can help the student to identify their requirements and seek appropriate additional support

1.3.3 CONFIDENTIALITY

NAS will do all it can to protect the confidentiality of all those who make disclosures and/or formal reports of sexual assault and/or sexual harassment. Individuals have the right to determine whether they wish to make a report to the police.

However certain circumstances limit NAS' ability to maintain confidentiality. For example:

Mandatory Reporting – NAS and certain NAS staff may be legally required report to external agencies in certain situations, for example where students under the age of 18 are involved.

Key Staff - It may be necessary to inform key staff at NAS to maintain the safety of the individual concerned and that of the broader school community. (and in the processing of disclosures and formal reports). For any such sharing of information the individual will be notified.

Formal reporting – Where a formal report is made, NAS is obligated to discuss the report with the person(s) named in the report. Please see 'Natural Justice' below.

1.3.4 NATURAL JUSTICE & PROCEDURAL FAIRNESS

NAS will always conduct any complaint process under the principles of natural justice and procedural fairness, meaning that any investigation of a complaint will be equitable, fair and impartial.

NAS recognises that it may have formal responsibilities to the person who is the subject of the complaint and that being the subject of a complaint can also cause that individual to be affected.

Where NAS does have these responsibilities, it will:

- Inform the individual of the details of any reports made about them
- Give them the opportunity to respond
- Ensure fair and equitable treatment.
- Provide appropriate support and guidance
- Timely communication about the process and its resolution.

1.3.5 CULTURAL COMPETENCE

NAS will respond to all disclosures and reports competently and with due regard to different cultural backgrounds. NAS provides training to staff identified as likely to receive disclosures and reports. Students will be notified of those who have had training. NAS will provide access to others who have the skills to handle a disclosure/report in a culturally competent way in circumstances where it believes our staff may not have the appropriate cultural knowledge. Interpreters will be accessed where necessary.


1.4 SCOPE & REMIT

This policy applies to all students and staff of, and visitors to, the National Art School and to any situation where the National Art School has a duty of care. This includes any School arranged excursion or event, including those arranged by the Student Representative Council (e.g., Student Ball, Gallery Crawls etc)

The National Art School has no affiliations with any provider of residential services or club/society (other than the SRC) but encourages students to disclose any occurrence of sexual assault or sexual harassment and to seek support services.

2 MAKING A DISCLOSURE

NAS recognises that a disclosure may be made to anyone in the NAS community; however only those identified as likely to receive a disclosure will receive training as first responders. Should an untrained member of staff or a student receive a disclosure they should, if appropriate, encourage the person to speak to a trained first responder.



At all times, the person receiving the disclosure should treat them with compassion, empathy and ensure their safety and confidentiality. Where a crime may have been committed, staff and students should encourage them to contact a sexual assault service (such as Royal Prince Alfred Hospital) where they can access medical and forensic services and a social worker can advise them of the process involved in reporting to the police, should they wish to do so.

The member of staff receiving the disclosure should ensure that the person in question is aware of the support available both publicly and through NAS.

All staff at NAS are required to report if a disclosure has been made to them for the purposes of monitoring the incidence of sexual assault and sexual harassment. For these purposes only core data set will be reported and retained, and confidentiality will be maintained. (For details of the core reporting data set please see appendix A.)

(Please note, where required, NAS will comply with mandatory reporting legislation)

3 MAKING A FORMAL REPORT

Where a person wishes to make a formal report regarding their experience, they should approach a member of staff listed on the National Art School Student Portal and named on sexual assault support lists around the school. Students reporting sexual assault or harassment can also email student.services@nas.edu.au who will refer your report to an appropriately trained member of staff who will contact you.

Where a crime may have been committed people are encouraged to contact a sexual assault service (such as Royal Prince Alfred Hospital) where they can access medical and forensic services and a social worker can advise them of the process involved in reporting to the police, should they wish to do so.


At all times the priority of NAS will be the safety and well-being of the individual concerned and other members of the NAS community.

For the purposes of dealing with formal reports of Sexual Assault and Harassment NAS will utilise an adapted form of the complaints handling process. NAS will deal with all reports promptly.

Report - The formal report should give an account of the incident detailed enough to enable investigation of the matter. This report will be shared with senior members of the School leadership in order to assess and investigate the matter.

Assess – The School will determine, based upon the account provided, whether any immediate action is necessary to ensure the safety of the person making the report and other members of NAS community. If deemed necessary, the student(s) or staff member(s) identified in the account will be suspended from NAS pending investigation of the report. At no point does such suspension imply any guilt or wrongdoing.

Investigate – The School will, depending on the nature and severity of the allegation, either conduct an investigation internally or appoint an external investigator. As part of any investigation, those about whom the allegation is made will have the opportunity to review the allegations made against them and have the opportunity to respond to the allegations. Both parties may provide evidence and witnesses to the investigation.



If the complaint is against a student, the investigation will culminate in a meeting of a disciplinary committee who will hear the evidence and make a determination. (Please see Disciplinary Policy for details on the formation of a Disciplinary Panel.)

If the complaint is against a member of staff, the investigation will culminate in a recommendation being made to the CEO / Executive who will make a determination. NAS will always act in accordance with the relevant employment legislation.

Act - If, on the balance of probabilities, it is believed that sexual assault or harassment took place, then the disciplinary panel will determine the appropriate disciplinary action from those available. For staff member the CEO/Executive for staff members will determine the appropriate disciplinary action from those available.

Penalties available to the Disciplinary Panel range from formal warnings through to Disciplinary suspension or Expulsion for students. Penalties for staff range from formal warnings to termination of employment for serious misconduct.

4 APPEALING THE RESULT OF A FORMAL REPORT

Where the matter is concerned only between students both parties will have the right of appeal. An appeal must be made in writing within 21 days of a decision and state the reasons for the appeal. Normal appeal procedures will be applied. (Please see Disciplinary Policy for details of appeal).

Where the matter is concerned with a member of staff, the person who made the report may appeal the decision if they are unsatisfied with the result. Any actions from such an appeal must be in accordance with relevant employment legislation.

These internal processes are not a substitute for criminal investigative process.


5 TRAINING AND EDUCATION

NAS is committed to providing specific training to staff identified as likely to receive disclosures and other training to the wider School community as appropriate. NAS will work with the SRC and with external organisations to provide students with the knowledge of what behaviour is expected of them as members of the NAS community and to know how they can access support and/or make a disclosure or a formal report. NAS will include SASH information and expectations in all program orientations and provide preventative training through staff and student induction processes.

6 MONITORING AND REVIEW

NAS will monitor and review the prevalence and characteristics of reported allegations of sexual harassment and assault and use this data to inform staff training and student education. This data will also be used when reviewing policies and procedures. These shall be reviewed at least every 3 years.

7 HISTORIC REPORTS



NAS recognises that those who have experienced sexual assault and/or harassment may not always report this at the time. NAS will listen to disclosures or formal reports of sexual assault

and harassment that took place in the past and take action, where appropriate, in line with this policy.

Where these historic reports refer to incidents prior to 2010 NAS will work with other agencies as appropriate.

SOURCE & REFERENCE DOCUMENTS

VERSION CONTROL AND CHANGE HISTORY

Version	Change Description	Implementation	Approval date
1.0	Policy is approved by ELT		07/09/2021