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1. Purpose

- a. The Analytics Institute of Australia (AIA) has zero tolerance for all forms of sexual assault and sexual harassment (SASH) and is committed to achieving and maintaining safe study and workplaces.
- b. This Policy sets out the AIA stance and general approach to matters of sexual misconduct relating to students.

The objectives of this policy are to:

- a. prohibit Sexual Assault and Sexual Harassment (SASH) by members of the AIA community;
- b. protect the safety and welfare of students disclosing or complaining about SASH;
- c. set out the meaning of SASH;
- d. explain the difference between disclosures and complaints of SASH;
- e. explain the difference between complaints to AIA and reports to the Police;
- f. encourage safe active bystander intervention;
- g. set out the principles applicable to disclosures and complaints of SASH; and
- h. support AIA's values of inclusion and diversity, and respect and integrity.

2. Scope

- a. This policy applies to disclosures by students of SASH, including:
 - anonymous disclosures;
 - disclosures about recent events; and
 - disclosures about AIA related and non-AIA related conduct.
- b. This policy applies to complaints by students of AIA related SASH including, but not limited to conduct by:
 - current students; and
 - current staff members, visitors or contractors.
- c. This policy applies to disclosures and complaints by all students, irrespective of gender, gender identity, intersex status, sexual orientation, race, religion, cultural background, or disability.

- d. It also applies to students when undertaking a professional placement or work experience for a Work Integrated Learning (WIL) component of their course.
- e. For the avoidance of doubt, the rights and obligations of students under this policy are in addition to the rights and obligations set out in the *Student Code of Conduct policy* and the *Bullying, Harassment and Discrimination Policy*.

3. Principles

- a. The fundamental principle of this Policy is that sexual misconduct, including sexual assault and sexual harassment in any AIA related context will not be tolerated by AIA, and where the behaviour constitutes a crime, will be treated accordingly.
- b. Care and consideration for a person's wellbeing is the primary focus of this Policy and the procedures applied when responding to any disclosure, when seeking a resolution and when addressing any formal complaint of SASH.

Definitions

Sexual assault

- a. Sexual assault includes a range of behaviours, all of which are unacceptable and constitute a crime. Sexual assault occurs when a person is forced, coerced, or tricked into sexual acts against their will or without their consent, including when they have withdrawn their consent.

Sexual Harassment

- a. Sexual harassment can happen on or off campus, at AIA related events, or between people sharing the same study space. Sexual harassment isn't always obvious, repeated or continuous. It can be a one-off incident. Sexual harassment does not have to be directed at a particular individual, and is not gender specific. Behaviour which creates a hostile environment for other people can also comprise sexual harassment.
- b. Sexual harassment can involve unwanted or unwelcome:
 - touching
 - staring or leering
 - suggestive comments or jokes
 - sexually explicit pictures or posters
 - repeated invitations to go out on dates
 - requests for sex
 - intrusive questions about a person's private life or body
 - unnecessary contact, such as deliberately brushing up against a person
 - insults or taunts based on sex or gender
 - sexually explicit physical contact
 - sexually explicit emails, text messages or social media activity.

- a. Sexual harassment is a common and known cause of physical and mental injury, and can cause extreme offence or intimidation.
- c. Mutual attraction that is welcome and reciprocated between two people is not sexual harassment.

Consent

- a. For the purposes of this Policy, a person consents to a sexual act if they freely and voluntarily consent to the sexual act.
- b. A person is not able to freely and voluntarily consent to a sexual act when they are:
 - asleep or unconscious;
 - significantly intoxicated or affected by drugs;
 - intimidated, coerced or threatened, including when they are afraid of harm to themselves or someone else;
 - unclear about the identity of the person performing the act;
 - tricked into doing something they do not want to do;
 - detained or held against their will;
 - under 16 years of age;
 - under 18 years of age and the person performing the act is a staff member of AIA;
 - pressured to engage in the sexual act by another person, who is in a position of power or authority over them.
- c. Consent to a sexual act must be clear and obvious. The fact that a person does not say 'no' to, or does not physically resist a sexual act does not of itself mean that they consent to it.
- d. A person is free to withdraw their consent at any time prior to or during a sexual act, for any reason.

Disclosures of Sexual Assault and Sexual Harassment by Students

- a. Students who have experienced SASH have a right to decide whether they want to disclose the incident to AIA, or not.
- b. A student can make a disclosure of any incident of SASH to AIA in person at any time.
- c. Students can elect to make disclosures anonymously.
- d. AIA is committed to supporting students who disclose SASH.
- e. Students should make a disclosure (rather than a complaint) of SASH if they do not want AIA to investigate or to take any specific action in response to the incident.
- f. Students who choose to make a disclosure of SASH may later decide to make a complaint to about the same incident. AIA will provide guidance about how to make a complaint.
- g. All disclosures will be treated confidentially, a disclosure will not be investigated unless:
 - there appears to be an imminent risk to the health or safety of the student or another person; or
 - one or more other people name the same perpetrator in a separate incident disclosure and AIA is concerned that there may be a risk to the health or safety of other persons; and
 - will inform the student who disclosed before commencing an investigation into a disclosure.

- h. AIA will otherwise use information contained in disclosures on a deidentified basis to identify trends and to develop targeted responses to SASH in the AIA community.

Complaints of Sexual Assault and Sexual Harassment by Students

- a. Students who have experienced SASH have a right to decide whether they want to make a complaint to AIA, or not.
- b. A student who has experienced sexual SASH can make a complaint in person.
- c. Students who have experienced SASH should make a complaint (rather than a disclosure) if:
- they want AIA to investigate or to take specific action; and
 - the complaint is about AIA related conduct, including conduct by:
 - other students; or
 - staff members, contractors or visitors.
- d. Students do not have to specify what action they want AIA to take in order to make a complaint. If students choose to specify what action they want AIA to take, the AIA may decide to take that action or some other action, as appropriate.
- e. AIA is committed to supporting students who complain about SASH.
- f. In most circumstances, a student wishing to make a complaint of SASH will need to provide their name. AIA will not act on anonymous complaints of SASH unless:
- it is not necessary for the respondent to be aware of the identity of the complainant in order to properly respond to the complaint; or
 - there is independent documentary or other evidence supporting the complaint and the allegation can be tested fairly.
- g. AIA is unable to act on complaints from complainants who decline to provide information about the alleged perpetrator. In such cases, the complaint will be treated as a disclosure.
- h. AIA will handle complaints by students of sexual misconduct and sexual harassment in accordance with the *Student Code of Conduct Policy* and the *Student Grievance, Resolution Policy and Procedures*.
- i. If a student makes a complaint of SASH by a visitor, contractor or other person over whom AIA has no jurisdiction, the AIA may seek assistance from another organisation or refer the complaint to an external agency for resolution.

Confidentiality

- a. Except as provided above, AIA will keep confidential all information relating to a disclosure or complaint of SASH, unless the student consents to disclosure of part or all of the information for a specified purpose.
- b. Subject to this clause, complainants and respondents must keep confidential:
- the identity of the complainant, the respondent and participants in the resolution or investigation of a complaint;

- the information provided or collected during the resolution or investigation of a complaint;
 - the fact that a complaint has been made;
 - any interim measures taken; and
 - any report, outcome or determination of a complaint.
- c. Complainants and respondents may disclose information in order to obtain support or advice from:
- their immediate family members;
 - a qualified counsellor or psychologist;
 - their student representative or lawyer;
 - the Police;
 - A breach of confidentiality may result in disciplinary action including, where the person is a student, action under the Student Code of Conduct.

Reports to the Police

- a. AIA supports the right of students who have experienced SASH to decide whether they want to report the incident to the Police, or not.
- b. A student may decide to make a disclosure or complaint to AIA, but not report the incident to the Police. Alternatively, they may decide to report SASH to the Police, but not to make a disclosure or complaint to AIA.
- c. A person's decision to make a report to the Police will not necessarily preclude AIA from investigating or taking action in response to sexual misconduct or sexual harassment. However, any internal AIA process may have to be suspended pending completion of the criminal process.
- d. When deciding whether to suspend an internal AIA process pending completion of a criminal process, the AIA will consult the Police and the complainant and will consider:
 - The potential for the internal process to impede or contaminate the criminal process;
 - the potential for the criminal process to impede or contaminate the internal process; and
 - whether investigating or responding to the incident has the potential to impact adversely on the rights of either or both the complainant or the respondent.
- e. If a student decides not to report an incident of sexual misconduct to the Police, AIA will use its best efforts to protect the confidentiality of information relating to their disclosure or complaint, while meeting its obligations under local law.
- f. In some limited circumstances, AIA may need to report an incident of sexual misconduct to the Police against a person's wishes, to ensure their safety or the safety of other members of the AIA community, or to meet its legal obligations.
- g. AIA will inform the student before reporting an incident of sexual misconduct to the Police.

Active by Stander Intervention

AIA encourages and values reasonable safe active bystander intervention by members of the AIA community to prevent or stop SASH from occurring or continuing.

The steps involved in safe active bystander intervention are:

- noticing the situation –paying attention to what is going on nearby;
- deciding if it is a problem – investigating whether someone might need help, and checking with people around if unsure;
- accepting responsibility to take action – not assuming someone else will do something;
- making a plan to step in – indirectly or directly confronting the issue, without being aggressive or putting oneself or others in danger;
- reporting details to AIA of the event.

No Victimisation

A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person:

- making a disclosure or a complaint of sexual misconduct or sexual harassment;
- providing information about a disclosure or a complaint of sexual misconduct or sexual harassment;
- supporting a person who has made a disclosure or complaint of sexual misconduct or sexual harassment; or
- engaging in reasonable safe active bystander intervention.

A breach of this clause may result in disciplinary action including, where the person is a student, action under the Student Code of Conduct.

Procedure for handling Sexual Assault and Sexual Harassment complaints and allegations

- AIA procedures for handling complaints are based on confidentiality, impartiality, procedural fairness, protection from victimisation and prompt resolution.
- Where necessary, the procedures set out in the AIA Critical Incident Policy will be implemented.
- Management will ensure that all complaints and allegations are investigated quickly and fairly and treated with complete confidentiality, care and consideration for the wellbeing of both the grievant and alleged perpetrator.
- If students witness harassing conduct, they must report it to Student Support Officer or Dean of Students.
- If a student perceives or believes that they are being sexually harassed, they should formulate their concern and in the first instance speak directly to the person who they believed has aggrieved them. In doing so, the aim is to resolve the matter in dispute as quickly and as informally as possible.
- If the grievant is uncomfortable in raising the matter personally, then they should report the matter to Student Support Officer or Dean of Students and discuss whether a written complaint should be lodged with the Chief

Operating Officer. To ensure the prompt and thorough consideration, the student should provide as much of the following information as possible:

- The name of the person or persons allegedly committing harassment.
 - A description of the incident(s), including the date(s), location(s) and the presence of any witnesses.
 - The names of other individuals who might have witnessed the harassment or been subject to the same or similar harassment.
 - Any other information the student believes to be relevant.
- g. If the allegation is sexual assault, then a written complaint should be lodged with the COO immediately and step e. above not taken.
- h. The grievant and Student Support or Dean of Students should discuss and agree what support would be beneficial to the student. The COO and Dean of Students will arrange access, including from external sources if not available internally, such as local sexual assault services, or counselling services.
- i. If the matter is referred to the COO, as soon after receiving the complaint as is possible and always within five working days, the COO or their delegate should meet with the grievant so as to fully understand the complaint and to advise the grievant of what might be required to attest the allegations and/or to have them resolved. At this point, the grievant will be advised of the options available to them, noting that a decision to start a formal process, or report to the police, and whether they will seek counselling and manage their trauma without reporting, is a decision for the individual. The COO will decide during this interview whether the complaint can or cannot be resolved to the satisfaction of the grievant informally or whether formal proceedings need to be instigated.
- j. Where formal proceedings are instigated, the COO shall convene an investigative committee of three persons, comprising a chair nominated by the COO, a member of staff and a person, either internal or external with subject matter expertise on prevention and response to sexual assault and sexual harassment. The COO may also appoint a person to gather facts and/or witnesses relevant to the matter and intended to assist the investigative committee.
- k. When formal proceedings are instigated, the COO will also provide the alleged perpetrator with clear information about what they can expect, and the assistance available to them.
- l. The investigative committee shall decide the way it wishes to undertake its investigations including the witnesses that it may wish to examine and any documents or other exhibits that it may wish to inspect.
- m. The COO shall seek legal advice to ensure consideration of the impact of internal processes on a possible criminal investigation and establish:
- clear authority for the investigation
 - a clear description of the nature of the investigation
 - a clear description of the matters which will be investigated
 - clear guidance to staff on the steps involved in the investigation

- n. The investigative committee shall provide a report to the COO and that report should include recommendations, as to how best to resolve the grievance(s) or next steps. If the committee cannot reach a unanimous decision, then any dissenting member of the committee may also table a report.
- o. After considering the report, the COO shall decide and convey that decision to the parties. The COO may release the committee's report to the parties and in so doing may decide to keep parts of the report confidential.
- p. The respondent will be given a right to defend themselves to ensure that the process is fair and transparent.
- q. The assigned staff handling the complaint would be responsible to document the investigation and findings and present it for final approval before any disciplinary action is initiated against the employee.
- r. The assigned staff handling the complaint must ensure that proper process and procedures are followed during investigation. All witnesses shall remain confidential even after action has been taken as per the finding.
- s. Details of the process and resolution must be documented, and copies given to all parties involved. A complete file of the complaint will be kept confidentially, and the steps taken to resolve the matter must be retained by AIA for a minimum of fifteen years after action completed and then destroyed.
- t. The COO is responsible for notifying the police if criminal activities are alleged.

Interim Measures

Interim measures should not be interpreted as anticipating or revealing the outcome of any AIA or criminal investigation process.

In order to minimise the potential for harm to any person, AIA may take interim measures against a student in response to:

- a. a complaint of SASH against the student, pending:
 - resolution of the complaint;
 - investigation of the complaint;
 - the conclusion of an internal disciplinary process; or
 - criminal investigation and hearing; or
- b. an Apprehend Violence Order (AVO), whether interim or final.

As an interim measure AIA may:

- a. suspend a student from entering specified parts of AIA land;
- b. restrict a student's access to particular classes;
- c. restrict a student's access to specified buildings, facilities or accommodation; or
- d. prohibit a student from speaking to or approaching another person (including by social media, email, letter or through a third party); for such period, and on such terms, as AIA considers necessary.

Interim measures must be:

- a. taken on a case-by-case basis;
- b. set for a fixed period of time; and

- c. reasonable and proportionate; having regard to the seriousness and circumstances of the alleged conduct.

Interim measures may be taken summarily, and AIA:

- a. is not required to provide a hearing to the student before making a decision; and
- b. may inform themselves in relation to any matter in any manner that they think fit.

Interim measures once taken will continue to apply until they:

- a. are revoked or varied by AIA; or
- b. expire in accordance with their terms.

AIA will notify the student of the imposition of interim measures within 24 hours of doing so.

A student who is the subject of interim measures may seek an internal review of those measures by application via the AIA Student Grievance, Resolution Policy and Procedure.

Vexatious Complaints

A student must not make a vexatious or malicious complaint of SASH.

For the purposes of this policy, a complaint will be considered vexatious or malicious if the student or former student makes it:

- a. knowing it to be false; and
- b. for the primary purpose of damaging AIA or the person against whom the complaint is made.

Making such a complaint may result in disciplinary action including, where the person is a student, action under the AIA Student Code of Conduct.

Educational Measures to Prevent Sexual Misconduct and Sexual Harassment

The Dean of Students in consultation with the COO may:

- a. establish educational programs about sexual misconduct and sexual harassment; and
- b. stipulate the conditions on which such education must be completed.

Breach of Policy

- a. AIA may take disciplinary action against any person who is knowingly involved in a breach of this policy.
- b. Where the person is a student, this may include disciplinary action under the AIA Student Code of Conduct.
- c. Where the person is staff member, this may include disciplinary action under the AIA Student Code of Conduct.
- d. Where the person is a contractor or visitor, this may include the revocation of contract or campus access rights.

Record Keeping and Reporting

AIA will:

- a. keep appropriate records of all disclosures and complaints of sexual misconduct and sexual harassment in a secure location;

- subject to the confidentiality requirements on request as set out in the *AIA Privacy Policy*, allow reasonable access by students to information about themselves.
 - AIA will collect, store and use de-identified information about disclosures and complaints by students to identify trends and to develop targeted responses to sexual misconduct and sexual harassment in the AIA community.
- b. Access to information relating to a disclosure or complaint of sexual misconduct or sexual harassment will be restricted to AIA staff who have a need to access and use the information in order to carry out their responsibilities under this policy.

4. Responsibilities

The Chief Operating Officer is responsible for maintenance and implementation of this Policy.

5. Legislation and Associated Documents

The information in this Policy is adapted from summaries developed by [Worksafe Victoria](#) and the [Law Council of Australia](#) to explain relevant legislation.

Under the Australian Human Rights Commission Act 1986, and the Sex Discrimination Act 1984, sexual harassment is unlawful and strictly prohibited.

TEQSA has produced good practice guides on higher education providers' responding to SASH

6. Supporting Information

The following AIA policies and documents are relevant to his Policy

- Bullying, Discrimination and Harassment Policy
- Staff Code of Conduct Policy
- Student Code of Conduct Policy
- Student Grievance, Resolution Policy and Procedures
- Student Support Policy

Version history

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