



Sexual Misconduct Prevention and Response Policy

Scope

This policy applies to:

- all students enrolled with Kaplan, regardless of the mode of study or the campus they are attending.
- all employees of Kaplan
- all accommodation providers (where applicable)
- contractors and consultants performing work on Kaplan sites or on behalf of Kaplan
- visitors and volunteers
- persons contractually bound to comply with this policy.

In respect of sexual misconduct occurring:

- on Kaplan campuses or other facilities, including live-in accommodation and homestay arrangements (where applicable)
- in virtual spaces such as online forums, platforms and communities arranged or facilitated by Kaplan
- whilst using Kaplan information and communication technology resources
- at premises where work integrated learning is undertaken as part of a Kaplan activity, including but not limited to internships, work placements, fieldwork, or other type of practicum
- whilst students, employees or contractors are representing Kaplan, including but not limited to excursions, exhibitions, competitions, sports events, client meetings, social gatherings and cultural activities
- between a Kaplan employee or contractor and a student enrolled with Kaplan
- in Kaplan contracted accommodation (where applicable).

Outside Scope

At times, sexual misconduct may be disclosed or reported as occurring outside the scope of this Policy, including but not limited to occurrences at a third-party site such as a private venue, event or occasion not connected with or facilitated by Kaplan. In these cases, the matter will not be investigated by Kaplan, but support services and referrals will be offered as appropriate, including support through Kaplan's Wellbeing Program such as in-house student counsellors and Lifeworks counselling services.

Purpose

The purpose of this Policy is to set out Kaplan's Australia and New Zealand Group ("Kaplan") commitment to creating a safe and respectful environment for work and study for all members of the Kaplan community, responding sensitively and appropriately to reports of sexual assault and sexual harassment, and providing a mechanism for addressing reports of sexual assault and sexual harassment.



Policy Statement

Sexual assault and sexual harassment are unlawful. They are also a fundamental erosion of a person's right to be treated equitably, respectfully, and in a way that protects their safety. These behaviours are never acceptable or deserved and will not be tolerated by Kaplan.

All sexual assault and sexual harassment are misconduct or serious misconduct as defined by Kaplan's Enterprise Agreement and policies and procedures relating to code of conduct and will be responded to accordingly.

Kaplan recognises that different community members will have different expectations and experiences, and that some populations may be more vulnerable to sexual assault or sexual harassment than others. Kaplan will provide sensitive and appropriate mechanisms so that all members of the Kaplan community can be supported and enabled to obtain help if they experience sexual assault or sexual harassment.

Kaplan will take a zero-tolerance approach to sexual assault and sexual harassment. Kaplan will report to the relevant authorities and regulators all incidents that indicate material breaches in health and safety or preventative controls, including recurring incidents of sexual assault or sexual harassment as this may indicate material breaches in safety or preventative controls.

Definitions

Kaplan means Kaplan Australia Holdings Pty Ltd ACN 117 261 980 or any of its associated entities (as defined in section 50AAA of the Corporations Act 2001 (Cth)).

Consent In the context of sexual activity, consent is free and voluntary agreement to engage in the specific sexual activity undertaken. Consent does not exist when the person:

- is under the lawful age of consent as specified in the applicable criminal code or legislation (under the age of 16 for all Australian states, except South Australia and Tasmania where the age limit for consent is 17 years of age. The age limit for giving consent in New Zealand is 16 years of age).
- agrees because of force, the threat of force, or the threat of humiliation
- is unlawfully detained
- is asleep or unconscious
- is intoxicated to the point of being unable to give meaningful consent
- is incapable of understanding the nature of the activity
- has a mistaken belief about the identity of the other person
- is mistaken about the nature of the activity
- lacks capacity to understand what is taking place due to a cognitive disability.

Disclosure of sexual misconduct occurs when a person affected informs another person or organisation.

Report of sexual misconduct is when a report is made by a person affected or someone on their behalf.



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

- Rape: forced, unwanted sex or sexual acts.
- Any sexual contact with a child.
- Indecent assault: touching (or the threat to touch) a person's body in a sexual manner without consent by another person.

Sexual harassment is unwelcome sexual behaviour that makes a person feel offended, humiliated, or intimidated. Sexual harassment is not consensual sexual interaction, flirtation or friendship and is not behaviour that is mutually agreed upon. Sexual harassment can be physical, verbal or written and it can include:

- Non-consensual physical contact, such as pinching, touching, grabbing, kissing, or hugging.
- Comments about a person's private life or the way they look.
- Sexually suggestive behaviour, such as leering or staring.
- Sexually suggestive comments or jokes.
- Displaying sexually offensive material.
- Accessing sexually explicit or inappropriate material from the internet.
- Continued requests for dates that have been previously denied .
- Requests for sex.
- Sending sexually explicit or offensive emails, text messages or posts on social networking sites.
- Making or distributing sexually explicit photos or videos.
- Unwelcome sexual advances.
- Acts of indecency.
- Sexual assault.

Policy Principles

Kaplan is committed to providing a fulfilling, rewarding and safe environment with a firm view that sexual misconduct is unacceptable.

The following principles, as further specified below, express Kaplan's commitment to:

- sexual misconduct,
- responding appropriately and effectively to reports and disclosures of sexual misconduct, and

Sexual assault and sexual harassment prevention strategies

Kaplan will continue to develop and implement a range of prevention strategies that are designed to raise awareness and address the risks to the Kaplan community of experiencing or witnessing sexual misconduct.

Prevention strategies include but are not limited to:

- Relevant policy is accessible on Kaplan websites and internal employee intranet
- Sexual assault and sexual harassment first responder training:



- A diverse network of trained employees to assist persons who have reported sexual assault or sexual harassment. The role of a first responder is to provide guidance about support services available.
- Relevant sexual assault and sexual harassment information prevention and report material is communicated during student orientation and staff induction processes.
- Health and Safety Champion Group (HSCG) leads efforts to prevent and respond to sexual assault and sexual harassment connected to Kaplan, including strategy development and implementation, review of policies, systems, processes, and risk management activities, including risk assessments.

Reporting Sexual Misconduct

Any member of the Kaplan community who experiences or has knowledge of sexual misconduct occurring at or engaged in work or study related activities is strongly encouraged to report an incident to Kaplan by:

- Using the “*Incident/Hazard Report*” form to report the incident. The form is located on each Kaplan’s school websites.
- Immediately report the situation in confidence to a *First Responder* or the relevant Campus Manager/College Director. The report may be done verbally or in writing using the “*Incident/Hazard Report*” form.

All reports made verbally are to be recorded on the “*Incident/Hazard Report*” form and sent to the relevant Manager, Campus Manager (or equivalent) and safe@kaplan.edu.au .

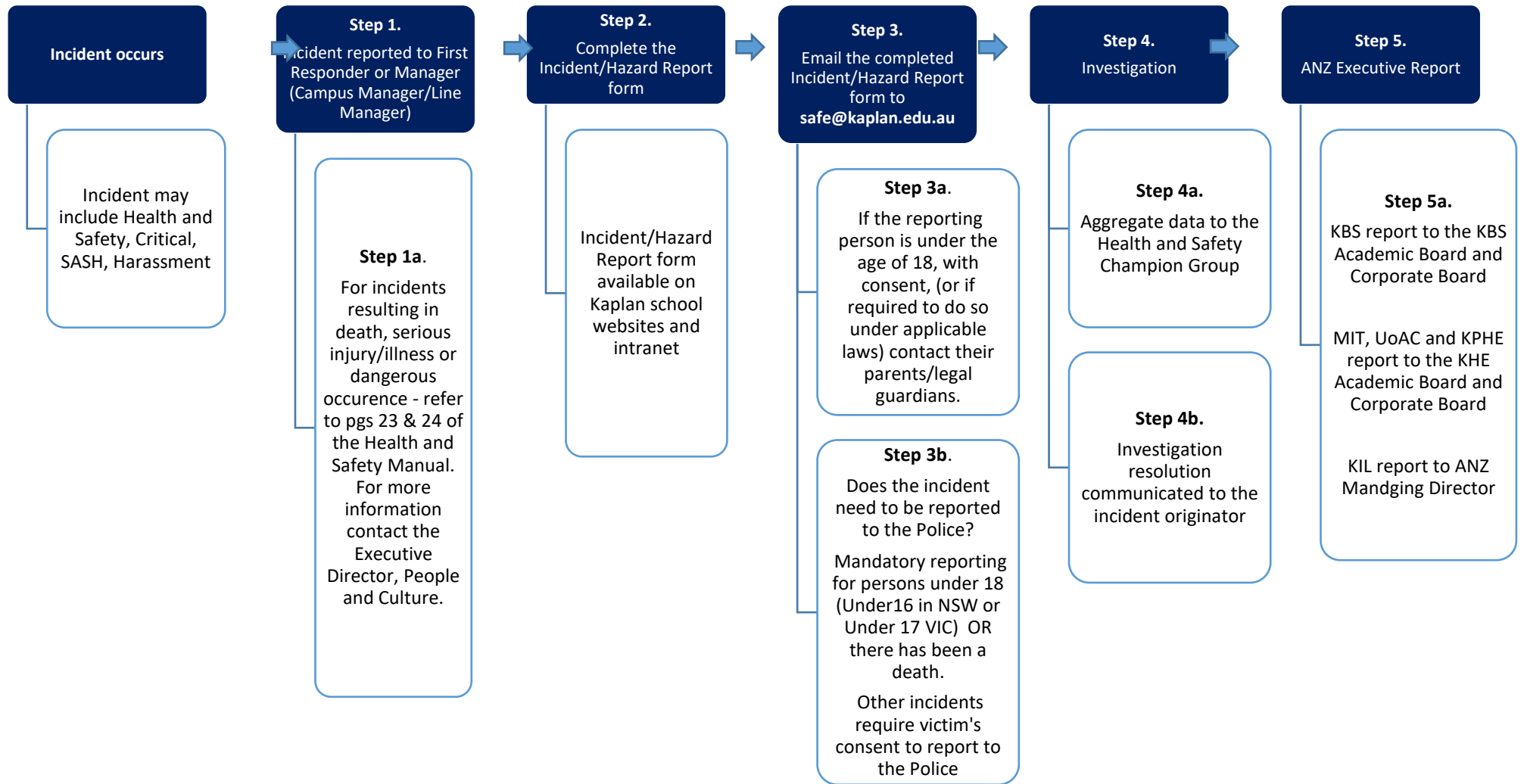
A person reporting an incident will **not** be required to report the perceived issue to an individual whom they believe is causing or condoning the issue. If the circumstances make reporting the conduct to the above listed individuals inappropriate, the person reporting the incident may choose to send the report via email to: safe@kaplan.edu.au .

Reports by any person are always treated with confidentiality. This means that they are not shared with anyone unless required by law or professional registration requirements or required for Kaplan to take necessary action.

Reports are not shared with the individual about whom the report is made, unless Kaplan proposes to take some action about the report that will affect that individual.

The process should an incident occur is summarised below and outlined in the following diagram:

1. Incident reported to First Responder or Manager
2. Incident/hazard Report form is completed
3. Completed form is emailed to safe@kaplan.edu.au
4. Incident is investigated, including any required reporting to Police and parents/guardians (if appropriate)
5. Aggregate data is reported to required reporting areas and resolution communicate to the originator.





The Kaplan community are strongly advised to report instances of sexual misconduct. Kaplan's contracted entities or providers (e.g., student accommodation) are also expected to report instances of sexual misconduct report form.

Where a report of sexual misconduct is made by a person on behalf of someone else, the identity of the subject of the report must not be disclosed directly or indirectly without their consent. If consent is not given or the person's identity is not known (for example, where an incident has been witnessed), a report may be made that does not identify the person concerned. This process allows for anonymous reports to be made which do not identify the people involved in the incident.

Kaplan will keep accurate and sufficient records of all reports. Periodic reporting of de-identified data will occur in accordance with privacy requirements.

How to Respond to an Incident of Sexual Misconduct

Kaplan requires any person within the Kaplan community who becomes aware of sexual misconduct at or connected with Kaplan to report the incident via one of the options listed below:

Reporting options for Staff:

- Informing the relevant internal People and Culture business partner
- Contacting an *Emergency Contact/First Responder* (listed Kaplan school webpages)
- Contacting the appropriate manager within Kaplan
- Contacting Kaplan's "Lifeworks" service

Reporting options for Students:

- Lodgement of a student incident to the Student Experience Team
- Contacting an *Emergency Contact/First Responder* (listed Kaplan school webpages)
- Contacting Kaplan Campus Security
- Contacting the Student Counsellor

The person who experienced the sexual assault or sexual harassment may choose to make an external complaint to police without first utilising one of the reporting methods listed above.

Regardless of which avenue is initially adopted, all of the avenues listed above will submit a timely completion and submission of the "*Incident/Hazard Report*" report to ensure that the integrity and accuracy of the data in the central data collection point is maintained.

Kaplan will monitor and respond to all reports of sexual misconduct submitted through one of the avenues listed above and provide options for assistance by providing the appropriate contact information for further support.

Kaplan's response to those experiencing sexual misconduct will always be to support the welfare of persons involved, adhere to principles of procedural fairness, and facilitate health, safety, and recovery.



Responses to reports may include:

- urgent relocation from accommodation
- providing referrals to medical or support services
- providing options about minimising contact with the person allegedly involved
- providing information about Kaplan's misconduct processes (if applicable)
- assistance with making a Police report
- providing Kaplan's students and employees with information about "Lifeworks", the Employee Assistance Program, available also to students
- providing information about how to access support services, such as *The National Sexual Assault, Family and Domestic Violence Counselling Line*.

If a report submitted indicates that there may be an ongoing serious risk to any person or a crime has been committed, the report will be referred to the Police.

Under State and Federal legislation, Kaplan is obliged to report to the Police information which might materially assist in the apprehension of an offender, or the prosecution/conviction of an offender engaged in a serious criminal offence, such as rape. The victim/survivor of the crime will be informed about the reporting to the Police to allow them to choose if they want to remain anonymous or if they want to receive further support from Kaplan.

Kaplan may also initiate urgent interim measures, such as restricting a person's access to campus buildings or properties (where there is an immediate threat to the safety of any person), suspending a person from Kaplan and/or suspending a person from specified activities and/or positions of leadership. Failure to comply with interim measures may lead to disciplinary actions.

Sexual Misconduct can be reported at any time

Kaplan encourages the prompt reporting of sexual misconduct to maximise Kaplan's ability to respond effectively.

Kaplan recognises that the length of time between an alleged incident of sexual misconduct and the making of a report may vary, depending upon a range of factors. Kaplan also recognises that any action taken is always driven by the wishes of the victim.

Records of sexual misconduct

Kaplan maintains a record of all reports of sexual assault and sexual harassment.

Information recorded includes:

1. The alleged behaviour.
2. The location and circumstances of the behaviour.
3. Steps taken to respond to the incident.
4. Support or assistance offered and received.
5. Only if consent is given, the name of the discloser / complainant.
6. Where possible, a record of the outcome of any police investigation.

The collection, storage use and disclosure of personal information is governed by the Australian [Privacy Act 1988 \(Cth\)](#) or the New Zealand [Privacy Act 2020](#) (as relevant) and



Kaplan's *Privacy Policy*. Kaplan will only permit information stored in the central data collection point to be accessed and used by staff who have a need to access and use the information to carry out the actions and responsibilities described under this Policy.

Personal information will only be disclosed outside Kaplan where:

- The disclosure is necessary to prevent a serious and imminent threat to the life or health of the individual concerned or another person.
- The individual to whom the information relates has expressly consented to Kaplan disclosing the information.
- Kaplan is lawfully authorised or required to disclose the information, including because:
 - the information indicates evidence of a serious indictable offence
 - of a subpoena or warrant issued to Kaplan
 - a mandatory reporting requirement arises regarding children and young persons
 - of a mandatory health and safety reporting requirement to regulators.

Kaplan Investigative and Disciplinary Processes

Where a report of sexual misconduct connected with Kaplan is received, Kaplan will commence an investigation in accordance with its misconduct procedures. In cases of alleged misconduct by employee, an investigation under the applicable employment agreement will be conducted. If the allegation is substantiated, in whole or in part, Kaplan will impose an appropriate disciplinary outcome.

Reports of sexual misconduct which may constitute criminal conduct may be promptly referred to the Police. Once a Police investigation has commenced, Kaplan may defer or cease its own investigation process. Any such action will not limit any urgent interim measures that may be necessary to preserve the safety and wellbeing of individuals.

If the Police choose not to pursue further investigation Kaplan may carry out or resume its investigations. Kaplan's investigations will be procedurally fair. This means that the person allegedly responsible for the sexual misconduct will be provided with an opportunity to understand and respond to the allegations made against them before a determination is made.

Any adverse action taken or threatened against a student, employee, or other person because of their involvement in reporting sexual misconduct will result in disciplinary action. In this context, adverse action includes threatening, intimidating or harassing any person, intentionally interfering in an investigation, and interfering with the academic or professional progress or career of an individual.

Guiding Procedures

Kaplan's intent is to create an environment of wellbeing and safety (specifically with regards to sexual assaults and sexual harassment incidents) across all Kaplan education providers and will encompass the following guiding procedures:

- Promote clear policies and accountable practices to support its values of safety and wellbeing, including sexual harassment and sexual assault



- Ensure awareness of Kaplan's obligations under Australian State or Federal Law.
- Create and promote avenues and contacts for support for Kaplan students, staff and contractors
- Provide and make available specific types of personal support services such as counselling and academic progress support.
- Ensure that support services offered reflect the needs of students, staff, and contractors affected
- Promote a safe and caring environment
- Conduct effective risk assessments and implement preventative controls for the risks identified
- Provide guidance on actions to take, staff to contact and support services that are accessible (whether directly or through another party) if a student's personal circumstances are having an adverse effect on their education
- Conduct evidence based sexual violence, drug and alcohol abuse prevention education programs for students, staff and contractors
- Provide an Orientation Program for students that includes information regarding sexual assault and/or sexual harassment policies, procedures, and support.
- Provide a Staff Induction Program for employees and contractors that includes a dedicated section on sexual assault and/or sexual harassment policies, procedures and support
- Implement and monitor systems and processes to respond to incidents of sexual assault and/or sexual harassment and prevent recurrences
- Ensure proper record management of incidents
- Ensure mandatory reporting to police is completed for cases involving people under the age of 18 (under 16 in NSW and under 17 in Victoria)
- Always ensure the privacy and confidentiality of all people involved in an incident
- All staff, students, and contractors in positions of leadership and management must, with the support of their teams and for inclusive purposes, identify opportunities and take steps for ongoing improvement.

Relevant Legislation and Policies

Australia Federal Criminal Code Act 1995

Australian Human Rights Commission Act 1986 (Cth)

Anti-Discrimination Act 1977

Australian State and Territory Work, Health and Safety Acts

Education Services for Overseas Students Act 2000 (ESOS Act 2000)

Education Services for Overseas Students Regulations 2001

Health and Safety at Work Act 2015 (NZL)

Higher Education Standards Framework (Threshold Standards) 2015

Privacy Act 1988 (Cth)

National Code of Practice for Providers of Education & Training to Overseas Students 2018

Sex Discrimination Act 1984 (Cth)

State Based Crimes Acts

Tertiary Education Quality and Standards Agency Act 2011 (TEQSA Act)



Other relevant policies and procedures to be used together with the “Sexual Misconduct Prevention and Response Policy”:

- Assessment Policy
- Code of Conduct (Staff) (available from People and Culture Team)
- Critical Incident Management Policy
- Diversity, Inclusion and Equity Policy
- Electronic Media Policy
- Enrolment Terms and Conditions
- Grievances, Complaints and Appeals Handling Policy
- Incident Reporting Procedure
- Prevention of Harassment and Bullying Policy
- Privacy Policy
- Reasonable Adjustments Guidelines
- Employee Induction
- Student Orientation Program
- Health and Safety Policy

Amendments

Kaplan Australia reserves the right to amend this policy at its discretion. All changes and amendments to our policies are published on Kaplan Australia website.

Version Control and Accountable Officers

It is the joint responsibility of the Implementation Officer and Responsible Officers to ensure compliance with this policy.

Policy Category		Corporate		
Responsible Officers		Executive Director People and Culture, Vice President Academic		
Implementation Officers		School Executive, College Director or equivalent		
Review Date		September 2022		
Approved by:		Endorsed by:		
Corporate Board		Academic Board		
Vers ion	Authored by	Brief Description of the changes	Date Approved	Effective Date
1.0	Kaplan Australia Quality, Regulations and Standards Team.	New policy.	17.09.2019	23.09.2019
1.1	Kaplan Australia Quality, Regulations and Standards Team.	In the “Reporting Sexual Misconduct” section added information on the reporting process, including a process diagram.	30.01.2020	01.02.2020
1.2	Kaplan Australia Quality, Regulations and Standards Team.	<ul style="list-style-type: none"> • Major review and rewrite • Removal of duplication and refinement of terms for readability. • Reporting process diagram updated to state consent required from Under 18s to inform parents. • Added State and Territory based OHS Acts as reference 	27.07.2021	01.08.2021