

Sexual Assault

Procedure

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1. PURPOSE

The Sexual Assault Procedure outlines how the Academy of Film, Theatre & Television (AFTT) will manage incidences of sexual assault and should be read in conjunction with the *Discrimination, Bullying, Harassment, and Sexual Misconduct Policy*.

2. SCOPE

The Sexual Assault Procedure applies to all members of the workforce and students while engaged in AFTT activities on or off campus and extends to wherever that activity takes place.

For the purpose of this Policy, all AFTT's workforce members are referred to as 'staff'.

3. DEFINITIONS

For definitions directly applicable to this Procedure refer to the *Discrimination, Bullying, Harassment, and Sexual Misconduct Policy*.

All definitions are located in the *AFTT Glossary*.

4. PROCEDURE

4.1. Reports and Complaints of Sexual Assault

- 4.1.1. Anyone witnessing or involved in an incident of sexual assault at AFTT may make a report or complaint using the *Sexual Misconduct Report Form*.
 - 4.1.1.1. A report – primary purpose of the report is to notify AFTT that the incident of sexual assault occurred and to ensure that the affected person, if identified, received the support they needed to continue studying and working. Making a report does not normally trigger an investigation.
 - 4.1.1.2. A complaint is made by providing all the details of the incident. The formal investigation will commence, and disciplinary actions may follow when the complaint is lodged. Criminal proceedings may also be pursued.
- 4.1.2. Any person can provide information that an incident of sexual assault has happened and can, at any time, pursue external processes including reporting to Police.
- 4.1.3. An individual's decision on whether they choose to make a report and/or a complaint will be respected and will be kept strictly confidential. Only in exceptional circumstances such as being required by law or where there is a risk of significant harm to themselves or another individual's health and safety will information be divulged to third parties, such as the Police.
- 4.1.4. A support person or representative may be present when attending any meetings relating to sexual misconduct or a complaint. If either the complainant or respondent is unable to personally attend on campus, alternative methods will be considered.
- 4.1.5. All reports or complaints will be recorded in a confidential Sexual Misconduct Register by the Campus Manager and analysed which allows AFTT to identify any patterns in behaviours and to monitor progress in eliminating sexual misconduct.
- 4.1.6. If any incident is related to a person under the age of 18 years, AFTT is under obligation to notify the Police and Community Services through the Child Protection Helpline.

4.2. Sexual Assault – Initial Response

- 4.2.1. Allegations of sexual assault must be dealt with immediately. If the student, staff member or any other member of the AFTT community is sexually assaulted and has not accessed the nearest hospital emergency department or Police station,

they should contact 1800 Respect (24-hour sexual assault and domestic violence support) on 1800 737 732.

- 4.2.2. If overseas, trip supervisors should contact the local authorities in that country as well as inform the Director of International Services who may assist with any required consular support and other services.
- 4.2.3. AFTT's key focus is the safety, wellbeing and needs of the person who has been subjected to sexual assault. Therefore, wherever possible the wishes of the person subjected to the sexual assault will be respected with strict confidentiality.
- 4.2.4. Under circumstances where a person has been assaulted in a remote or overseas location, so as to ensure their safety and wellbeing it may be required to arrange for a return to their home or for alternative accommodation. This should be co-ordinated by the Campus Manager or Director of International Services.
- 4.2.5. Person who has experienced or is currently experiencing an incident of sexual assault can confide in a First Responder, who will listen with compassion and encourage the person to seek support.
- 4.2.6. An incident of sexual assault may have been observed by a Bystander, who should acknowledge the incident and intervene if they are able to and it is safe to do so or call 000 when required.

4.3. Managing a Report of Sexual Assault

- 4.3.1. Upon receipt of a report, the Campus Manager will work with the First Responder or Bystander if required and/or the staff member or student. The Campus Manager can provide support, including access to counsellors, if needed and will give consideration to possible measures available.
- 4.3.2. While anonymous reporting can be made using the *Sexual Misconduct Report Form* the person making the report will have to identify others who have been involved. However, it must be noted that any response by AFTT may be limited by the detail provided.
- 4.3.3. Third party reports may also be made with regards to sexual assault. Investigations, however, may be limited due to a lack of evidence from the individual who was directly subjected to the assault or where Procedural Fairness, or Natural Justice is not being followed. Under such circumstances the Campus Manager may consider approaching the individual via the third party to see if they would consider making a report.
- 4.3.4. AFTT may still consider proceeding with an investigation if other sufficient evidence exists, particularly where patterns of behaviour have become evident.
- 4.3.5. Even though making a report does not necessarily trigger an investigation it does mean the Campus Manager can advise the person subjected to sexual assault of their options to make a complaint.

4.4. Making a Complaint of Sexual Assault

- 4.4.1. In making a complaint, the Complainant is required to provide the Campus Manager with detailed information in order that an investigation, disciplinary action, or other resolution can be properly undertaken. At this stage, an investigation will formally commence.
- 4.4.2. Should AFTT commence an investigation and an external process, such as criminal proceedings, is also being pursued, AFTT may decide to suspend its investigation and advise the Complainant of its decision. Notwithstanding AFTT will continue to provide all necessary support.
- 4.4.3. In resolving a complaint, AFTT must ensure that principles of Natural Justice are observed, and that care must be taken not to dismiss a matter as trivial without due consideration.
- 4.4.4. Any complaint received by the Campus Manager will be assessed to ensure that:

- The appropriate support services have been engaged,
 - There are no immediate safety or other risks associated with the complaint,
 - Sufficient information has been provided in order to proceed,
 - Any requirement to notify an external body has been considered and met,
 - The individual has been made aware of and understands the complaint process.
- 4.4.5. Allegations of sexual assault made against staff members will be referred to the Director of Finance and Operations by the Campus Manager for investigation as possible serious misconduct.
- 4.4.6. Allegations of sexual assault made through a complaint against a student will be investigated by the Campus Manager under the *Student Code of Conduct* and *Non-Academic Misconduct Policy and Procedure*.
- 4.4.7. Where an allegation of sexual assault is made through a complaint against a Campus Manager or senior executive of AFTT it will be referred to the Director of Finance and Operations or CEO for investigation.

4.5. Investigating a Complaint of Sexual Assault

- 4.5.1. On receipt of a complaint, the Campus Manager will undertake an initial inquiry to determine whether sufficient evidence and standard of proof on the balance of probabilities exists.
- 4.5.2. Where the initial inquiry determines that the allegation does not meet the required standard of proof, the matter will be closed. AFTT will continue to provide support to the complainant who will be advised that they can appeal the decision.
- 4.5.3. Where the initial inquiry determines that the allegation meets the required standard of proof AFTT will investigate under its relevant discipline procedures.
- 4.5.4. The Director Finance and Operations can determine to suspend a staff member during an investigation, as a precautionary measure, based on a risk assessment and/or on the recommendation of the Campus Manager.
- 4.5.5. The Campus Manager will consider if a student should be suspended during an investigation based on a risk assessment and/or on the recommendation of a Head of Department.
- 4.5.6. All parties subject to an investigation will be afforded Natural Justice and have the right to have a support person with them.
- 4.5.7. An investigation will be suspended if a complainant decides to pursue criminal proceedings but may recommence if for whatever reason the criminal process ends.
- 4.5.8. In resolving the complaint, the Campus Manager will determine the disciplinary action required if it is found that the *Discrimination, Bullying, Harassment, and Sexual Misconduct Policy* and *Student Code of Conduct* has been breached. Outcomes may include legal action and/or other disciplinary action such as suspension or exclusion from AFTT.

4.6. False Allegations and Vexatious Reports and Complaints

- 4.6.1. Reports or complaints made in bad faith, including false information in the course of an investigation may lead to AFTT taking disciplinary action against that person.
- 4.6.2. If the person filing a report or complaint is found to be vexatious, AFTT may take action under the *Student Code of Conduct* and the *Non-Academic Misconduct Policy and Procedure*.

4.7. AFTT Support

- 4.7.1. Students are also able to seek confidential counselling services and support at AFTT as needed.
- 4.7.2. AFTT's Safe Campus site on AFTT's Learning Management System provides a range of information and online resources for students and staff in relation to safety and wellbeing, including information on consent, sexual assault, counselling support and pathways to reporting.
- 4.7.3. Campus Manager provide a single point of contact at AFTT for a person who has been subjected to sexual assault or to any person supporting them. Campus Manager will support people to access specialist sexual assault services and to provide support with making a report or complaint to AFTT as well as to follow up with Police and emergency services, as necessary.

5. RELATED DOCUMENTS

- 5.1. AFTT Glossary
- 5.2. Discrimination, Bullying, Harassment, and Sexual Misconduct Policy
- 5.3. Sexual Harassment Procedure
- 5.4. Personal Information and Privacy Policy
- 5.5. Health, Safety and Wellbeing Policy
- 5.6. Non-Academic Misconduct Policy and Procedure
- 5.7. Student Complaints and Appeals Policy and Procedure
- 5.8. Student Code of Conduct

6. RELEVANT LEGISLATION

- 6.1. Higher Education Support Act 2003 (Cth)
- 6.2. Higher Education Standards Framework (Threshold Standards) 2021
- 6.3. Age Discrimination Act 2004 (Cth)
- 6.4. Australian Human Rights and Equal Opportunity Commission Act 1986 (Cth)
- 6.5. Disability Discrimination Act 1992 (Cth)
- 6.6. Disability Standards for Education 2005 (Cth)
- 6.7. Fair Work Act 2009 (Cth)
- 6.8. Racial Discrimination Act 1975 (Cth)
- 6.9. Sex Discrimination Act 1984 (Cth)
- 6.10. Workplace Gender Equality Act 2012 (Cth)

7. POSITIONS RESPONSIBLE

- 7.1. Chief Executive Officer
- 7.2. Dean, Academic
- 7.3. Dean, Quality
- 7.4. Director of International Service
- 7.5. Director of Finance and Operations
- 7.6. Heads of Department
- 7.7. Campus Manager
- 7.8. Senior Management
- 7.9. AFTT members of the workforce

8. APPROVAL INFORMATION

Approval Authority	Governing Council
Health Check approval authority	AFTT CEO
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1.0	Governing Council	14/12/2018	14/12/2018	Original version	Superseded
2.0	AFTT CEO	05/03/2019	05/03/2019	Added mandatory reporting requirement	Superseded
2.1	AFTT CEO	28/10/2021	01/12/2021	Amendments as per external reviewer's recommendations.	Current

REFERENCES and ACKNOWLEDGEMENTS

James Cook University. (2021). *Sexual Assault Procedure*.

https://www.jcu.edu.au/_data/assets/pdf_file/0003/680691/Sexual-Assault-Procedure.pdf/

James Cook University. (2021). *Sexual Misconduct complaint information*.

<https://www.jcu.edu.au/safety-and-wellbeing/sexual-harassment-and-sexual-assault/sexual-misconduct-complaint-information>

