

Sexual Assault and Sexual Harassment Policy

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| Contacts | policy@imc.edu.au | | |
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1. Purpose

- 1.1. This Policy establishes the Australian National Institute of Management and Commerce’s (IMC) approach to preventing and responding to incidents of sexual assault and/or sexual harassment occurring at or connected with IMC. This policy supports IMC’s zero tolerance to sexual assault and sexual harassment and outlines behaviours that protect and support the safety and welfare of the IMC community.
- 1.2. This Policy addresses the principles applicable to disclosures and complaints of sexual assault and sexual harassment and outlines the support options available to IMC community members. The procedures outlined in this policy are underpinned by IMC’s motto of capability, integrity and responsibility together with values of dignity, diversity and respect.

2. Scope

- 2.1. This policy applies to all members of the IMC community where the behaviour governed by this policy occurred whilst they were part of the IMC community. The following are collectively referred to in this document as the ‘**IMC community**’: all employees, i.e. academic and administrative staff, affiliates, and board members; agents, workplace participants, contractors; all currently and previously enrolled students; individuals in the process of applying to be Institute students; students on academic leave; visitors, and volunteers.
- 2.2. The policy applies to any sexual misconduct involving: An IMC student with another IMC Institute student, current, past or in the process of enrolling; an IMC employee or IMC affiliate with an IMC student; an IMC employee or affiliate with another IMC employee.
- 2.3. This policy applies to all disclosures about current, recent or historical behaviour including those disclosures made anonymously. Should the disclosure or complaint be raised by a former member of IMC where the behaviour occurred whilst they were an IMC student or employee, IMC may decline to undertake a misconduct investigation and refer the former student or staff member to appropriate services or legal options within the wider community.
- 2.4. This policy applies to all IMC associated premises and facilities, including but not limited to libraries, teaching spaces, restrooms, recreational spaces, online learning and teaching platforms and other virtual environments. It also applies to any IMC related function or event.

3. Definitions¹

Complainant means any person who makes a complaint of sexual assault or sexual harassment.

Consent is an agreement between people to engage in sexual activity where that agreement is mutual, freely given, informed, certain and clear, enthusiastic, reversible, specific and required throughout the activity. For the purpose of this policy sexual consent holds the same meaning as is defined in NSW legislation. That is, a person must freely and voluntarily consent to the sexual act.

Respondent means a person whose behaviour/conduct is the subject of a complaint of sexual assault or sexual harassment.

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 assault also includes **family and domestic violence**.

Sexual harassment involves an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of sexual nature, which in the circumstances, a reasonable person, aware of those circumstances, would anticipate the possibility that the person would feel offended, humiliated or intimidated. Sexual harassment is not limited to the physical sphere and can occur through phone, email, social media posts and other forms of electronic communication. If the interaction is consensual, welcome and reciprocated it is not sexual harassment. However, it must be noted that a person may withdraw their consent at any time.

Student Service Unit means the specialist staff within the office of student services, who provide support and counselling and assist with the resolution of student issues, complaints and reports of student misconduct in accordance with IMC policies and procedures.

4. Statement of Principle

4.1. IMC's position on sexual assault and sexual harassment is one of zero tolerance. It is expected that IMC community members interact in ways that are responsible, respectful and safe. It is understood that experiences of sexual assault and sexual harassment are never appropriate. IMC supports appropriate disclosure and reporting of incidents of sexual assault and sexual harassment.

4.2. IMC undertakes to provide a safe learning and working environment that aims to prevent sexual assault and sexual harassment. The ethos of the SASH Policy is embedded within IMC educational strategies and measures will be taken to ensure IMC community members are aware of the appropriate standards of conduct and their rights and responsibilities.

5. IMC makes a commitment to:

5.1 Seek to prevent sexual assault and sexual harassment by implementing over time a range of prevention strategies.

5.2 Address the wellbeing and safety of staff and students through various policies, procedures, initiatives and support options. See *Bullying Harassment and Discrimination Prevention Policy*

¹ Further information and examples can be found in Appendix 1: Guidance Note.

and Procedure, Code of Conduct for Students, Code of Conduct for Staff, Complaints and Appeals Policy, Online Delivery Policy and Staff Students Relationships Policy

- 5.3 Take seriously all disclosures and reports of sexual assault and sexual harassment and even if the report is anonymous and investigate and respond in ways that hold central the welfare of those impacted.
- 5.4 Improve student and staff awareness of the SASH policy, associated policies and measures and linked support services via a dedicated webpage and via an online SASH awareness training program.
- 5.5 Raise awareness of SASH and provide compulsory online modules for students (Student Services) and SASH prevention workshops (Human Resources).
- 5.6 Establish an Institute SASH sub-committee with student representation to ensure SASH policy and linked activities are embedded within IMC culture and that continuous feedback and evaluation of effectiveness ensures a quality outcome.
- 5.7 Establish an appropriate and effective protocol to respond to disclosures and reports of sexual assault and sexual harassment. The focus of response will be the wellbeing and safety of students and staff who have experienced sexual assault or sexual harassment, including the facilitation of access to relevant counselling, medical, police and/or legal services as appropriate.
- 5.8 Do everything it is legally permitted to do to protect the privacy and ensure the respect and safety of any member of the Institute community reporting or complaining of sexual misconduct, sexual assault and/or sexual harassment.
- 5.9 Collect and include de-identified data regarding sexual assault and sexual harassment in quality assurance and continuous improvement processes.

6 Emergency and ongoing support

- 6.1 Contact details for emergency assistance for the Institute community who have experienced sexual assault or sexual harassment are set out in Schedule 1.
- 6.2 Contact details for ongoing support and assistance for the Institute community who have experienced sexual assault or sexual harassment are set out in Schedule 2.
- 6.4 Contact details for support and assistance for the Institute community who are the subject of a disclosure, report or complaint of sexual assault or sexual harassment are set out in Schedule 3.
- 6.5 Emergency and ongoing support contact details listed in the above schedules are published in the 'Safe Campus' flyer which can be downloaded in English or Chinese. (See Student Services 'Preventing sexual assault and sexual harassment').

7 Prevention of sexual assault and sexual harassment

- 7.1 IMC will continue to develop and implement strategies that aim to raise awareness and address the risks of IMC community members experiencing sexual assault and sexual harassment. Although it is

recognised that it is impossible to eliminate risks, IMC provides guidance on prevention via a range of policies that highlight best practice to avoid situations that may place students and staff at risk. In addition to this policy, see *Bullying Harassment and Discrimination Prevention Policy and Procedure*, *Code of Conduct for Students*, *Code of Conduct for Staff*, *Online Delivery Policy* and *Staff Students Relationships Policy*.

- 7.2 IMC has established a SASH sub-committee with student representation and at least one external member to ensure SASH policy and linked activities are embedded within IMC culture and that continuous feedback and evaluation of effectiveness ensures a quality outcome.
- 7.3 The Student Services Unit provides information via the 'Preventing sexual assault and sexual harassment' webpage. The unit conducts specialist training such as its bystander training program and includes details of contacts for counselling as well as emergency contacts.

Online module - the Consent Matters online module is available to students through Moodle. The online module offers a basic overview of sexual consent and how it is applied in selected scenarios that emphasise how consent is important. The module covers both communications, i.e. how to ask for consent and context and situations where consent is negotiated. Although it is generally considered compulsory for students, IMC acknowledges the possibility of the module causing trauma for a person who has previously experienced sexual assault or sexual harassment. In such situations, student services may use discretion to give exemption.

8 Response to reports and disclosures of sexual misconduct

- 8.1 Members of the Institute community who have been the victim of sexual misconduct, sexual assault or sexual harassment hold the right to decide whether or not they will disclose the incident to IMC.
- 8.2 A flowchart of responding to a report of sexual assault or sexual harassment is set out in **Schedule 4**.
- 8.3 Disclosure can be done at any time and can be made anonymously. However, it is important to recognise that IMC's capacity to investigate and respond appropriately will diminish over time. A time delay of reporting that is more than 12 months may mean that IMC is not able to respond effectively or to address the complaint fairly or to apply appropriate disciplinary procedures.
- 8.4 IMC is committed to supporting any IMC community member who discloses or reports sexual assault or sexual harassment. Any person disclosing behaviour that is the subject of this policy will be heard and treated respectfully, will not be victimised or otherwise subject to detrimental treatment as a consequence of reporting a sexual assault or sexual harassment. Details of inclusive and non-discriminatory support services for the Institute community are set out in **Schedule 2**.
- 8.5 Except as required under the law and as detailed elsewhere in this Policy, IMC will keep confidential all information revealed in a disclosure or report of a sexual assault or sexual harassment.
- 8.6 This includes the identity of the parties (the complainant and the respondent) and those involved in the investigation or resolution of a complaint. The information provided or collected during the investigation and/or resolution of a complaint and any report, outcome or determination of a complaint will be distributed only to those parties involved and the proper authority/authorities at IMC.

- 8.7 A breach of privacy or confidentiality may result in a misconduct action against the party whose action contributed to the confidentiality or privacy breach.
- 8.8 IMC supports the right of the IMC community member who has experienced sexual assault or sexual harassment to decide whether or not they want to report the incident to the NSW Police.
- 8.9 Any IMC community member retains the right to contact the NSW Anti-Discrimination Board, the Tasmanian Anti-Discrimination Commissioner, or the Australian Human Rights Commission to make a complaint of sexual harassment under anti-discrimination legislation.
- 8.10 The complaint resolution process is carried out in good faith and complaints that are frivolous, vexatious, misconceived or lacking in substance will be rejected if a preliminary investigation of the facts indicates this.

9 Security services available on the Sydney campus

- 9.1 Contact Campus Security Services for assistance with any emergency support needed on campus or to request a security officer provided an escort from the campus to the nearest public transport or to the Institute car park.
- 9.2 Campus Security Services are able to: take members of the IMC community to a safe place, provide transportation to the hospital, assist in coordination with law enforcement, and provide information about IMC's resources and complaint processes.

10 IMC response procedure

- 10.1 A flowchart of responding to a report of a sexual assault or sexual harassment is set out in schedule 4. Detailed information regarding the handling of informal and formal complaints, including complaints of sexual assault and sexual harassment, is provided in the *Student Complaints and Appeals Policy*.
- 10.2 IMC will, within reason, do all that is possible to resolve complaints of sexual assault and sexual harassment in a timely manner having regard to the sensitivities of the matter and ensuring a fair, confidential and due process with minimum disruption, while following the principles of procedural fairness.
- 10.3 Complainants and respondents will have a reasonable opportunity to state or respond to a complaint orally and in writing, and to provide any documents relevant to the complaint.
- 10.4 Complainants and respondents may choose to be accompanied to any meeting by a support person.
- 10.5 At no time will the complainant and respondent be required to meet with or to participate in negotiated activity with one another, unless they have both given their prior informed consent in writing.
- 10.6 Where sexual harassment or sexual assault constitutes misconduct, the matter may be referred for investigation under the relevant student conduct policy framework (for students) or the relevant staff policy, industrial instrument or agreement (for staff and other members of the Institute community).

11 Interim measures

- 11.1 While any investigation is going on in relation to any sexual assault or sexual harassment matter, interim measures may be taken including:
- Suspending or restricting a person's access to IMC buildings or facilities, including online facilities;
 - restricting a person's access to particular classes (including online activities) / offices or areas;
 - suspending or restricting a person's access to online facilities including Moodle; or prohibiting a person 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 Institute considers necessary for the safety and wellbeing of all parties and Institute community members generally.
- 11.2 Interim measures must have regard to the seriousness and circumstances of the alleged conduct and must be taken on a case-by-case basis. They can be for a fixed period of time.
- 11.3 IMC must notify any person of the imposition of interim measures within 24 hours of doing so.

12 Breach of this policy

- 12.1 IMC may take disciplinary action against any person who is investigated and found to have breached this policy. Disciplinary action includes but is not limited to an apology, counselling, suspension or exclusion depending on the severity and persistence of the behaviour. For further information, refer to *Bullying Harassment and Discrimination Prevention Policy and Procedure, Code of Conduct for Students, Code of Conduct for Staff*.

13 Recordkeeping and reporting

- 13.1 IMC will keep and maintain all appropriate records of any sexual assault or sexual harassment disclosures, reports, or complaints.
- 13.2 Access to information relating to a disclosure or complaint of sexual assault or sexual harassment will be restricted to IMC staff who have a need to access and use the information in order to carry out their responsibilities under this policy or otherwise.
- 13.3 IMC may or may not publish annually a de-identified report on the records kept.
- 13.4 The Principal will be responsible for setting and managing this policy for the IMC community.

14 Related Documents

- i. *Bullying Harassment and Discrimination Prevention Policy and Procedure*
- ii. *Code of Conduct for Students*
- iii. *Code of Conduct for Staff*
- iv. *Complaints and Appeals Policy*
- v. *Online Delivery Policy*
- vi. *Staff Students Relationships Policy*

15 Version Control

| Historical Version | Approved by | Approval Date |
|--------------------|-------------|----------------|
| 2019.08 | Principal | 02 August 2019 |

SCHEDULE 1 – Emergency contacts

1. In an emergency, members of the IMC community should contact emergency services by dialling triple zero (000).
2. A member of the IMC community who feels unsafe on campus or are concerned for their own or someone else's safety can also contact Campus Security on 02 92094666, 24 hours a day.
3. A member of the IMC community who has experienced sexual assault or sexual harassment should seek support as soon as possible. The following community services are recommended:
 - a) NSW Rape Crisis Service on 1800 424 017, 24 hours a day and also available online at <https://www.nswrapecrisis.com.au/GetHelp.aspx###>;
 - b) 1800RESPECT on 1800 737 732 or online via www.1800respect.org.au, 24 hours a day confidential advice;
 - c) Lifeline Crisis Support on 131144
 - d) Royal Prince Alfred (RPA) Hospital Sexual Assault Service on 02 9515 9040 (Monday to Friday) or 02 9515 6111 (after hours). Counselling and medical services are available for anyone who has been sexually assaulted. Campus Security can arrange transport to RPA.
 - e) Violence, Abuse and Neglect Service (VAN) for crisis, medical and counselling support (1300 792 755)
 - f) NSW Domestic Violence Line – 24/7 service for women and persons who identify as female 1800 656 463
 - g) QLife (3pm to 12am) hotline and WeChat support service for people who are LGBTI 1800 184 527 qlife.org.au

SCHEDULE 2 – Institute support for those who have experienced sexual assault or sexual harassment

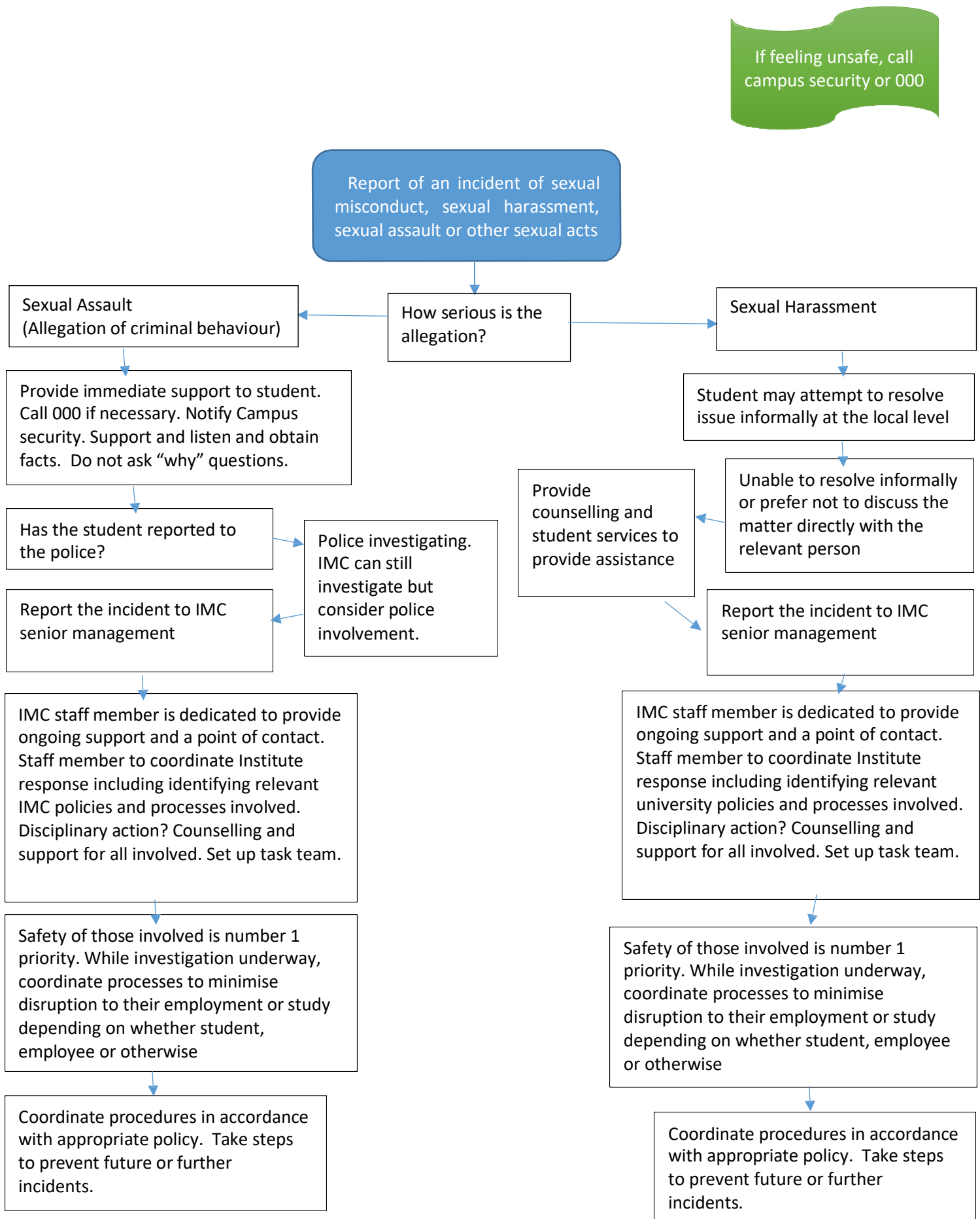
1. A member of the IMC community who has experienced sexual assault or sexual harassment can make a disclosure or a complaint to IMC by telephone, email or in person to Student Services anytime. Disclosures may also be made by a person witnessing or having been told of the incident.

2. A member of the IMC community who has experienced sexual assault or sexual harassment has access to a range of IMC support services and assistance, including:
 - a) Go to or contact Student Services – contact 02-92094882 or email studentservices@top.edu.au, 8.30am-5.30pm, Monday to Friday. Student Services will give advice regarding complaint procedures and provide a Student Support Officer to the case.
 - b) A formal complaint may be lodged via complaints@imc.edu.au;
 - c) IMC counselling support – contact 02 92094882 or email counselling@imc.edu.au
 - d) Sydney Campus Security Services – Phone: 02-92094666, available 24 hours seven days (24/7);
 - e) IMC's emergency contact – Emergency Student Services Officer, 0430589903, 24 hours a Mon-Fri
 - f) Academic support arranged by the Senior Student Service Manager – including special consideration for examinations and assessments.

SCHEDULE 3 – IMC support for those who have been accused of sexual assault or sexual harassment

1. Those who are accused of sexual assault or sexual harassment have access to a range of support services and assistance, including:
 - a) Counselling services – contact Student Services Office on 02-92094882, 9am to 5pm, Monday to Friday or email counselling@imc.edu.au;
 - b) Academic support arranged by the Senior Student Service Manager – including special consideration for examinations and assessments.

SCHEDULE 4 – Flowchart of responding to a report of sexual harassment, sexual assault



Appendix 1: Guidance Note

Sexual Consent

Consent to any sexual activities is very important. A person must freely and voluntarily consent to the sexual act. A person is unable to consent if they are:

- a) asleep or unconscious or significantly intoxicated or affected by drugs;
- b) tricked, intimidated, pressured, coerced or threatened;
- c) unable to understand that they are consenting to or unclear of the identity of the person performing the act;
- d) the person is pressured to engage in the sexual act by another person, who is in a position of power or authority over them or detained or held against their will; or
- e) under the age of consent. (Age of Consent is 16 in most parts of Australia. In South Australia and Tasmania, it is 17.)

Family and domestic violence

According to Australian Government Services Australia, family and domestic violence is violent, abusive, controlling or intimidating behaviour in a relationship. It makes people feel scared and unsafe. Sexual assault can involve in family and domestic violence.

Behaviour examples of sexual assault and sexual harassment

Examples of sexual assault may include (but are not limited to):

- Two people in a relationship start engaging in sexual activity but person A changes their mind and asks to stop. Person B refuses to stop and forces sexual activity.
- A student taking advantage of another intoxicated student by engaging in sexual activity when the student is unable to give consent due to being affected by alcohol.
- A staff member forces themselves onto another staff member while they are alone in a meeting room, attempting to engage in sexual activity.

Examples of sexual harassment may include (but are not limited to):

- Staring or leering at a person in a sexual manner;
- Standing deliberately too close to someone or deliberately brushing against someone as you walk past;
- Sharing intimate or sexual photos or videoclips online without consent;
- Inappropriate advances on social networking sites;
- Sexual insults or taunting;
- Requests for sex or repeated unwanted requests to go out on dates;
- Making promises or threats in return for sexual favours;
- Intrusive questions or remarks about a person's sexual activities;