

SEXUAL MISCONDUCT POLICY AND PROCEDURE

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Business Owner: Deputy Vice-Chancellor, Student Life
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1. AROKA | PURPOSE

Lincoln University is committed to providing a safe, respectful, inclusive, and tolerant campus environment in which any form of Sexual Misconduct is not tolerated. If a disclosure of Sexual Misconduct is made the University will deal with this in a supportive and fair manner to ensure all students and staff can participate in campus life to successfully study, learn, and work.

This policy outlines:

- the options available for those disclosing Sexual Misconduct;
- the expectation of staff and students who receive disclosures of Sexual Misconduct;
- support available to students who disclose Sexual Misconduct so that they are able to continue with their studies; and
- a clear process for the University to follow when responding to disclosed incidents of Sexual Misconduct.

This is a University-wide policy.

2. KĀ WHAKAMĀRAMA-TAKA | DEFINITIONS

Accommodations: Measures put in place following a disclosure of alleged Sexual Misconduct (e.g. changes to living arrangements, aegrotat approval, study requirements, course changes, and/or working situations such as working from home)

Affected Party: An individual who considers that they have been subject to Sexual Misconduct.

Confidential Staff: Staff who have professional obligations to keep information confidential between themselves and the person giving the information except where disclosure is required under law. These include medical practitioners, counsellors, and chaplains.

Consent: The active, ongoing, informed, specific, and freely given agreement in response to a request to engage in physical activity. Consent cannot be given by someone who is incapacitated by, or under the influence of, drugs or alcohol, unconscious, or otherwise unable to understand and voluntarily give consent.

Disclosing Person/Party: A person who discloses alleged Sexual Misconduct.

Disclosure: The sharing of information about an alleged Sexual Misconduct.

LUSA: The Lincoln University Student Association.

Te Awhioraki: The Lincoln University Māori Student Association.

Protective Measures: Measures put in place to support and protect an Affected Party following a disclosure of Sexual Misconduct, including measures to manage interactions with the Respondent. These may be agreed to by the parties involved or imposed. Voluntarily agreed to measures by a Respondent are not considered acceptance that Sexual Misconduct has occurred. Protective measures may include, but are not limited to, no-contact orders, limited access to campus, and prohibition from attending events. They may be interim or permanent.

Respondent: An individual alleged to have breached this policy.

Retaliation: Any threat or action intended to harm any person as retribution for a complaint made under this policy.

Sexual Assault: Any kind of sexual contact initiated without actively seeking and gaining mutual Consent. It includes, but is not limited to, kissing, touching of body areas, fondling, sex, or other forms of penetration.

Sexual Harassment: Unwelcome remarks, behaviors, or communications of a sexual nature where the person responsible for them knows or ought to know that they are unwanted.

Sexual Misconduct: A non-consensual physical or psychological sexual act that targets a person's sexuality, gender, ethnicity, or identity. This includes, but is not limited to, sexual assault, Sexual Harassment, stalking, non-consensual taking or distribution of sexual images or videos, and cyber stalking.

Grievous Sexual Misconduct: For the purposes of this policy means any Sexual Misconduct amounting to sexual violation (as defined in Section 128 of the Crimes Act 1961); attempted sexual violation; or assault with intent to commit sexual violation; or any other conduct or alleged conduct which the Deputy Vice-Chancellor Student Life or Vice-Chancellor (as appropriate) determines should be considered to be grievous Sexual Misconduct for the purposes of this policy.

Sexual Misconduct Support Team: The team of Lincoln University staff appointed by the Deputy Vice-Chancellor Student Life to undertake the roles defined in this policy.

3. KAUPAPA HERE | POLICY

SCOPE

This policy covers alleged or actual Sexual Misconduct that has been disclosed to the University which:

- has occurred on a Lincoln University campus or University owned property;
- is connected to Lincoln University activities off campus;
- has occurred through an online Lincoln University program;
- involves an Affected Party or Respondent who is a Lincoln University student or employee and there is a connection between the circumstances of the misconduct and the University.

Lincoln University will generally not have jurisdiction where a sexual harm incident has occurred prior to or after enrolment and/or employment at Lincoln University.

ROLES AND RESPONSIBILITIES

The Sexual Misconduct Support Team is responsible for providing support and guidance to students and staff when an alleged Sexual Misconduct is disclosed. They will support affected parties and Respondents by ensuring that they are aware of supports, their options, University processes, and that their needs are being met where practicable. They will maintain appropriate independence when supporting affected parties and Respondents to prevent conflicts of interest amongst staff. They may liaise with the Proctor (for student matters) or the Executive Director, People, Culture and Wellbeing (for staff matters) or other appropriate staff to ensure any Accommodations or Protective Measures needed are put in place. They do not investigate alleged

Sexual Misconduct but provide oversight and support to affected parties and Respondents. The Team is responsible for the confidential, and safe storage of information relating to alleged disclosures of Sexual Misconduct. Where possible this information will be stored in a manner that does not identify individuals. The purpose of keeping this record includes to identify trends, allow ongoing best practices, and education.

The Proctor (or their deputy) is generally responsible for investigating alleged Sexual Misconduct under this policy involving students. They are also responsible for advising/implementing interim Accommodations and Protective Measures if required. Investigation and decision making may necessitate the involvement of the Vice-Chancellor and Deputy Vice-Chancellor Student Life where required under University policy or where it is otherwise deemed appropriate.

The Executive Director, People, Culture and Wellbeing (or their delegate) is responsible for investigation and responding to Sexual Misconduct under this policy involving University staff.

RIGHTS OF THE PARTIES

Affected Parties have the right to:

- be treated in a manner that enables them to maintain control and empowers them to determine their own needs and how those needs are met;
- be heard;
- be treated with dignity and respect;
- be free from prejudice based upon ethnicity, sexual orientation, gender, gender identity, age, ability, lifestyle, or experience;
- be free of blame or judgement, no matter what the situation was at the time of the alleged Sexual Misconduct;
- choose whether or not, and to what extent, they wish to participate in University support and/or disciplinary processes;
- have access to support people within and/or outside of the University of their choosing.
- be provided with options for action including whether they wish to report to Police;
- request all relevant information held with regards to the complaint by the University. If information is withheld during the investigative stage due to safety concerns, or prejudicial concerns, it will be made available at the conclusion of the complaint except where safety concerns persist.

Respondents to allegations of Sexual Misconduct have the right to:

- the presumption that they have not breached this policy unless an investigation where they have had the opportunity to be fully heard has determined otherwise, or they have admitted the breach;
- choose whether or not, and to what extent, they are willing to participate in any investigation;
- be treated with dignity and respect;
- not be exposed to prejudice based on ethnicity, sexual orientation, gender, gender identity, age, ability, lifestyle, or experience;
- be treated in accordance with their employment agreement where relevant.
- have access to support;
- request all relevant information held with regards to the complaint by the University. If information is withheld during the investigative stage due to safety concerns, or prejudicial concerns, it will be made available at the conclusion of the complaint except where safety concerns persist.

PREVENTION

Respectfully LU is responsible for education aimed at preventing Sexual Misconduct and the promotion of healthy relationships amongst students in their first year of study and under the age of 22 at Lincoln University.

4. PROCEDURE

Disclosure of Sexual Misconduct

Lincoln University strongly encourages any individual who has been subject to, or knows of Sexual Misconduct, to seek support and disclose the Sexual Misconduct to a trusted University staff member or support service.

Affected parties may choose to:

- make a Disclosure without raising a formal complaint;
- make a Formal Complaint

Where practicable, affected parties are entitled to change their mind about how the disclosure is addressed at any time.

University staff receiving a disclosure of Sexual Misconduct are expected to:

- ensure the Affected Party is safe and if not, contact the Police and/or University security for urgent assistance;
- offer to facilitate contact with support services (listed at the end of the policy)
- with the consent of the Affected Party, advise the Sexual Misconduct Response Team of the disclosure to allow:
 - appropriate supports to be put in place;
 - information about options to be provided;
 - Human Resources to be involved where a staff member is involved;

Confidential Staff are not required to advise any other party of information they receive regarding Sexual Misconduct but may do so where it is required by their professional obligations, or they are doing so with the explicit consent of an Affected Party.

Students receiving a disclosure of Sexual Misconduct are encouraged to:

- ensure the Affected Party is safe and if not contact the Police and/or University security for urgent assistance;
- offer to facilitate contact between support services and the Affected Party;
- pass on information to the Sexual Misconduct Response Team where this is appropriate.

University's Response to a disclosure of Sexual Misconduct

All members of the University affected by Sexual Misconduct are entitled to access support services, counselling, and advocacy services. This is a priority of Lincoln University when a disclosure of Sexual Misconduct has been made.

The University will always aim to respect and safeguard the privacy of individuals who disclose alleged Sexual Misconduct and those who are involved in the process. Information will only be shared on a need-to-know basis with those who are or need to be involved in the process.

A Disclosure without a formal complaint:

- allows the Affected Party to access support, Accommodations, and Protective Measures;
- the Respondent is not required to be identified and if they are, do not need to be notified (unless Protective Measures are sought);
- in some cases, where there is significant risk to the University community, a University investigation may take place even if this has not been sought by the Affected Party. This can be determined by the Vice-Chancellor, in consultation with the Sexual Misconduct Response Team, Deputy Vice Chancellor Student Life and/or Proctor (or Executive Director People, Culture and Wellbeing where the Respondent is a University staff member). The Affected Party will be notified of the reasons for the investigation and may choose not to participate in the University investigation.

A Disclosure by way of formal complaint

- Allows the Affected Party to access support, Accommodations, and Protective Measures.

- Requires identification of the Respondent. For the complaint to be progressed the Respondent will be informed of the identity of the Affected Party and the allegations being made. If there are safety concerns with doing this then the information may be with-held until a time that it is considered prudent to proceed.
- Can be investigated by the University, directly by the Police, or referred from the University to the Police in the circumstances of an alleged Grievous Sexual Misconduct.

University-led investigation:

- Run by the Proctor (or their delegate) if a student is the Respondent or the Executive Director, People, Culture and Wellbeing (or their delegate) if a staff member is the Respondent.
- Will be run in a timely manner and timeframes will be communicated to both the affected and Respondent parties.
- Will allow all parties support as needed.
- Will allow all parties the right to be heard.
- Will ensure all parties are aware they may decline to participate in the investigation at any time, however this will not preclude the investigation from being run.
- All parties will be made aware of potential outcomes if the complaint is upheld.
- The investigation conclusions will be reported and may find:
 - sexual misconduct has occurred
 - sexual misconduct has not occurred or is unable to be proved based on the available evidence
 - it is unclear if Sexual Misconduct has occurred, and the matter will be left open pending further evidence becoming available.

At the conclusion of an investigation the Proctor or Executive Director, People, Culture and Wellbeing (as applicable) may:

- Keep interim Accommodations and Protective Measures in place for a specified period.
- Impose additional Accommodations or Protective Measures.
- Impose a penalty on a student or staff member Respondent (where Sexual Misconduct has occurred).

Police-led investigation:

- If an Affected Party wishes the matter to be referred to the Police, the University will support the student in doing this with their consent.
- The University will continue to support the Affected Party as needed including with interim Accommodations and Protective Measures where necessary.
- Where a Respondent admits or is found guilty of Sexual Misconduct through the justice system, the University will apply its own subsequent process under the Student Discipline Regulations (for students), or Disciplinary Policy and Procedure (for staff).

Grievous Sexual Misconduct:

- A referral will be made to the Police by the University with the Affected Party's consent.
- Information collected by the University to determine if a Grievous Sexual Misconduct has occurred will be collected in a sensitive manner and limited to information required to make the referral only.
- No formal statement will be taken by the University to prevent the Affected Party from having to repeat their story and be re-traumatised.
- A brief record (confidential and un-identifiable) will be kept by the University of the information collected and the referral being made.

APPEALS

Where Accommodations or Protective Measures have been imposed by the Proctor or Executive Director, People, Culture and Wellbeing (as appropriate), an appeal may be made by any party to the Deputy Vice Chancellor Student Life or Vice-Chancellor for these to be reviewed.

Appeals against the findings of an investigation or penalty imposed are pursuant to the appeals process specified in the Student Discipline Regulations (for students) and the Discipline Policy and

Procedure (for University staff).

5. KĀ HAEPAPA | RESPONSIBILITIES

The Deputy Vice Chancellor Student Life is the owner of this Policy and Procedure

6. RAUEMI | LINKS TO PROCEDURE(S) AND OTHER RESOURCES

Relevant Policies

Student Discipline Regulations
Staff Discipline Policy and Procedure
Staff Code of Conduct Policy
Student Code of Conduct
Prevention of Bullying and Harassment Policy
Prevention of Bullying and Harassment Discrimination Guidelines

Key Contacts

Sexual Misconduct Response Team supportandreport@lincoln.ac.nz

Lincoln University Student Health and Wellbeing
Doctors, nurses, and counsellors
(03) 325 3835

LUSA
info@lusa.org.nz
(03) 423 0578

Te Awhioraki
TeAwhioraki@lincolnuni.ac.nz

Lincoln University Campus Security
0800 545 388

Lincoln University Chaplains
chaplains@lincoln.ac.nz

The Police
111 for emergencies
(03) 363 7400 for non-emergencies
www.police.govt.nz/advice/sexual-assault

Cambridge Clinic
A specialist medical service to support those who has been sexually assaulted or abused, either recently or in the past.
www.cambridgeclinic.co.nz
(03) 366 0067

Safe to Talk
24/7 sexual harm helpline
0800 044 334 or txt 4334
www.safetotalk.nz

Acknowledgment: Lincoln University would like to acknowledge the University of Otago for sharing their Sexual Misconduct Policy and allowing aspects to be used for the development of this policy.