

Sexual Assault Procedure

Intent

This procedure outlines how the University will manage incidences of Sexual Assault.

This procedure should be read in conjunction with the, Bullying, Discrimination Harassment and Sexual Misconduct Policy. Sexual Assault will not be tolerated under any circumstances and is a criminal offence. The University is committed to the rights of all Students, Staff and Affiliates to work, research, study, live and socialise in an environment that is based on inclusivity and respect.

Scope

This procedure applies to all members of JCU Council, Staff, Affiliates and Students while engaged in activities undertaken as part of their study, research, work, living and socialising at or with JCU. The procedure extends to wherever that activity takes place. The scope of the procedure includes but is not limited to:

- Campuses;
- Managed student accommodation;
- Sporting and recreational clubs and facilities to the extent that they fall within the University Community;
- Managed digital environments; and
- Activities and situations related to University business that are not conducted on University premises, including but not limited to:
 - field trips
 - placements and internships
 - conferences
 - places of accommodation whilst travelling
 - students camps
 - inter-University events
 - parties and other social functions.

Definitions

Except as otherwise specified in this procedure, the meaning of terms used in this procedure are as per the Bullying, Discrimination, Harassment and Sexual Misconduct Policy and the University's [Policy Glossary](#)

Procedure

1. Sexual Assault – An integrated response

- 1.1 Sexual Assault as defined in the Policy is a serious incident of Sexual Misconduct, and constitutes a criminal offence.
- 1.2 Child Sexual Abuse (under 18) constitutes a criminal offence with mandatory reporting requirements. This reporting will be made by the Chief of Staff to the Queensland Police Service.
- 1.3 Any allegation of Sexual Assault must be dealt with immediately. The crisis and specialist support and University support are identified at section 2. If the Student, Staff member or Affiliate or any other member of the University Community is assaulted on a field trip, placement, or any location remote to the campus, then the State-wide Sexual Assault Helpline should be called, or if interstate, call 1800 RESPECT.

- 1.4 If overseas, field trip supervisors/support Staff should contact Chubb Assistance immediately who will guide them through the relevant countries medical/police system. The Chief of Staff as the University's Critical Incident coordinator and Sexual Misconduct Officer will also assist with consular support and return to Australia as necessary.
- 1.5 The safety, wellbeing and needs of the person who has been subjected to Sexual Assault are at the centre of JCU's response. To the fullest extent possible the wishes of the person subjected to Sexual Assault should be respected, and strict confidentiality applies at all times.
- 1.6 To ensure safety and wellbeing, this may require returning the person subjected to the Assault to their home location if remote to the campus or overseas. As a precautionary measure, and if Police have not been involved, the alleged perpetrator would also be brought back to their home location. If in residential accommodation on campus, alternative accommodation may also be required. This may be coordinated through the relevant Sexual Misconduct Officer.
- 1.7 Any member of the University Community may be a First Responder. A First Responder is a person who is confided in by another person who has experienced or is currently experiencing an incident/s of sexual assault. First Responders need to listen with compassion, respect privacy and confidentiality; and encourage the person to seek support (further detailed at section 2).
- 1.8 Any member of the University Community may be a Bystander. A Bystander includes a person who observes someone sexually assaulting another person, (see also First Responder). A Bystander should call 000 in an emergency situation. A Bystander can intervene at the time, if they are able to do so, and it is safe to do so. Bystanders should let the person subjected to the offence know that they've noticed, and let them know they will do what they can to help.
- 1.9 Some members of the JCU University Community have further obligations in respect of their positions or delegated authority identified in this Procedure and which is their responsibility to understand.
- 1.10 The University's response to Sexual Assault is integrated with specialist Sexual Assault Services. The University has referral protocols in place with Sexual Assault Services and works together with the Services to meet the needs of Staff and Students. The University will provide additional and complementary support services. These are detailed below and a quick reference guide is at Appendix 1.

2. Specialist Sexual Assault Services

- 2.1 If you have been sexually assaulted and have not accessed the nearest hospital emergency department or Police station, please call one of the following:

Townsville Sexual Assault Support Service	(07) 4775 7555 After Hours (07) 4759 9743 (Sexual Crimes Unit)
Cairns Sexual Assault Service	(07) 4031 3590
Mackay Sexual Health and Assault Service	(07) 4968 3919
Mt Isa Sexual Assault Service	(07) 4744 4826 After hours (07) 4744 4444 (Mt Isa Hospital)
Tableland Sexual Assault Service	(07) 40914036

Royal Brisbane & Women's Hospital Sexual Assault Response Team	(07) 3646 5207
Statewide Sexual Assault Helpline	1800 010 120
1800 Respect (24 hour sexual assault and domestic violence support)	1800 737 732

3. University Support

3.1 The University understands that if a member of Staff, Affiliate or Student presents having experienced Sexual Assault and requires crisis and ongoing care, it is best practice for the University to assist the person to access the specialist Sexual Assault Services. The University provides additional support services and these may be complementary to the specialised service delivery provided by the Sexual Assault Services.

3.2 Immediate response:

- **University Security** is available 24/7 to report any incident or behaviour, and will also follow up with Police and emergency services as necessary.

Security – Townsville or Cairns	1800 675 559
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Report all security incidents as early as possible to the Security Office or a Security Officer. Any emailed reports should be sent to security@jcu.edu.au (for Townsville) or cairnssecurity@jcu.edu.au (for Cairns).

- **Sexual Misconduct Officers** provide a single point of contact at JCU for a person who has been subjected to Sexual Assault, or to the Manager or any person supporting them. Sexual Misconduct Officers will support people to access the specialist Sexual Assault Services, and can facilitate Accommodations and Precautionary Measures, and provide support with making a Report, or Complaint to the University.

Sexual Misconduct Officers	Staff: Manager Staff Equity and Diversity Students: Manager Student Equity and Wellbeing JCU: Chief of Staff Contact details at https://www.jcu.edu.au/safety-and-wellbeing
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3.3 Ongoing support:

- **Student Counselling.** Students are able to seek confidential counselling services and support from the Student Equity and Wellbeing staff. The services operates between the hours of 9am – 4pm, but does provide a priority service to students who may have been impacted by Sexual Assault.

Contact details are:

Townsville	(07) 4781 4711	studentwellbeing@jcu.edu.au
Cairns	(07) 4232 1150	studentwellbeing@jcu.edu.au

Student Equity and Wellbeing Staff can provide assistance, advice and referrals to specialist services and emergency walk-in appointments are available.

- **JCU Student Association Advocates.** Students are able to contact a JCU Student Association Advocate and Welfare Officer who can provide free information, advocacy and referral on a range of issues relating to students.

JCUSA Advocates – Townsville or Cairns	1800 330 021
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- **Residential College** staff including the Principal, Deputy Principal, Manager Halls of Residence, Support Officers or Residential Assistants can provide pastoral care, support, and referral and also guidance on University policy and procedure.
- **Equity Contact Officers (ECOs).** Staff and students are able to contact an ECO to discuss options for internal and external support and making a Report, or Complaint to the University. ECO's also provide information and guidance on University policies and procedures.

Equity Contact Officer Network	https://www.jcu.edu.au/safety-and-wellbeing/support-services/equity-contact-officers-list
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- **Staff Counselling.** Staff are able to seek support from the Employee Assistance Program (EAP) which provides a confidential and free counselling service available to continuing and fixed term JCU Staff and immediate family.

Employee Assistance Program	1300 360 364
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- 3.4 JCU's Safety and Wellbeing website provides a range of [online resources](#) to students and staff in relation to safety and wellbeing, including information on consent, sexual assault and pathways to Disclose, Report or make a Complaint to the University.

4. Sexual Assault Reports and Complaints to JCU

- 4.1 Any person can provide information to the University that an incident of Sexual Assault has happened. All people, at any time, can pursue processes external to the University, including reporting to Police.
- 4.2 The University will respect an individual's decision on whether they will make a Report, and/or a Complaint to the University. Reports and Complaints will be kept strictly confidential except in exceptional circumstances, where required by law or where there is a risk of significant harm to that individual's health and safety or another individual's health or safety. In such circumstances, the University may do one or both of the following:
- resolve to elevate the Report to a Complaint in which case the individual who has Reported has the right not to participate in any subsequent Investigation provided that this action would not result in a denial of natural justice to the Respondent; and/or
 - notify third parties, such as the Police or child protection authorities.
- 4.3 A Member of the University Community may have a Representative present when attending any meetings relating to Sexual Misconduct, and any Report or Complaint. If the Complainant or Respondent unable to come onto campus, alternative methods of contact can be arranged.
- 4.4 All Reports or Complaints to JCU are recorded in the University's confidential Incident Register by the Chief of Staff. This enables JCU to identify patterns in behaviours, or in

high risk areas of the University, and to monitor progress in eliminating sexual misconduct.

5. Making a Report, and possible outcomes

- 5.1 Any person can make a Report through completing the online Sexual Misconduct Report Form. Sexual Misconduct Officers can provide support with completing the form. The Report is received by the respective Sexual Misconduct Officer – i.e., the Manager, Student Equity and Wellbeing for Students or the Manager, Equity and Diversity for Staff and Affiliates. The Chief of Staff is notified for the Incident Register and to ensure the University is responding effectively.
- 5.2 Upon receipt of the Form, the Sexual Misconduct Officers will work with the First Responder if required and/or make direct personal contact with the Staff member or Student to provide advice on support mechanisms available, both crisis support and that provided by the University. Sexual Misconduct Officers can provide support, including facilitating access to counsellors if needed, and consideration of possible Accommodations and Precautionary Measures available.
- 5.3 It is possible to make an anonymous report using the Sexual Misconduct Report Form, and the person making the report is able to, but does not have to, identify the other person/people involved. Note that JCU actions in response to any Report may be limited by the detail provided.
- 5.4 Making a Report does not start an investigation, but it does mean the Sexual Misconduct Officers can advise the person subjected to sexual assault on their options to make a Complaint.

6. Making a Complaint

- 6.1 In making a Complaint, a person (the Complainant) provides detailed information in order that an investigation and disciplinary action or other resolution can be taken against the Respondent.
- 6.2 Making a Complaint will start an investigation (assuming the University has the authority to investigate – refer to 8.11) and will include a referral to Sexual Misconduct Officers, if not already involved, for information and support as part of the processes.
- 6.3 If the University commences an investigation and an external process is also being pursued, the University may continue or suspend its investigation (after advising the Complainant). The University will continue to provide support, including assessments of Accommodations and Precautionary Measures in all cases.
- 6.4 Care must be taken not to dismiss a matter as trivial. In resolving a Complaint, the University must ensure that principles of Natural Justice are observed.
- 6.5 Any Complaint received by the Chief of Staff will be assessed to check matters including:
 - a) that the appropriate support services of the University have been engaged
 - b) any safety or other risks associated with the Complaint and any investigation requirement arising from the Complaint;
 - c) where the Complaint was not made by the individual directly affected, that the individual is advised of the Complaint and is able to talk about the Complaint and the anticipated process that the University will take to consider it;
 - d) that there is sufficient information to proceed;

- e) any requirement for the University to notify an external body, i.e., where Public Interest Disclosures or the Crime and Corruption Commission (where the Respondent is an employee); and
 - f) that where made by the individual directly affected, the individual has been made aware of and understands the complaint process and possible implications for them, before making a Complaint.
- 6.6 For the purposes of these procedures, a Staff member or Affiliate responding to a complaint or allegation(s) of Sexual Misconduct is referred to as a Staff Respondent and a Student responding to a complaint or allegation(s) of Sexual Misconduct is referred to as a Student Respondent.
- 6.7 Where a Student is also employed by the University or where a Staff member or Affiliate may also be a Student or a Council Member, the Sexual Misconduct Officer will make an assessment as to the role the alleged Respondent was undertaking at the time of the Sexual Assault (see 5.4 and 5.5 below).
- 6.8 Where an allegation of Sexual Assault is made through a Complaint against a Staff Respondent it will be referred to the Director Human Resources for investigation as a possible misconduct or serious misconduct under the JCU Enterprise Agreement.
- 6.9 Where an allegation of Sexual Misconduct is made through a Complaint against a Student Respondent it will be referred to the Director Student Services for investigation as possible misconduct under the Student Code of Conduct and Misconduct Procedures.
- 6.10 Where an allegation of Sexual Misconduct is made through a Complaint against a Council member Respondent it will be referred to the Chancellor for investigation as possible misconduct under the Council Code of Conduct.

7. Reports or Complaints made by third parties

- 7.1 Anonymous, and third party, Reports or Complaints of Sexual Assault may also be made.
- 7.2 The University may be unable to proceed with an investigation involving anonymous or third party Reports or Complaints due to a lack of evidence from the individual who was directly subjected to the Sexual Assault, or where proceeding would not allow for procedural fairness or natural justice.
- 7.3 The Chief of Staff may take other steps, including an approach via the third party to see if the individual affected would consider making a Report or Complaint.
- 7.4 Where other sufficient evidence exists, the University may decide to proceed with investigating an allegation without a Report or Complaint, particularly where patterns of behaviour have become evident.
- 7.5 If the University is unable to proceed with an investigation involving anonymous or third party allegations, the Complaint will be retained by the Chief of Staff. The Complaint will be kept strictly confidential, and access to it will be limited.

8. Investigating a Complaint

- 8.1 **Initial (preliminary) inquiry.** On receipt of a Complaint, the Director Human Resources or the Director Student Services will undertake an initial inquiry supported by the Sexual Misconduct Officers to determine whether sufficient evidence and standard of proof on the balance of probabilities exists.

- 8.2 Where an initial inquiry determines that an allegation does not meet the required standard of proof, a Complaint will be closed. The University will continue to provide support, including Accommodations to the Complainant. This decision to close an inquiry can be appealed (see section 11).
- 8.3 Where an initial inquiry determines that an allegation meets the required standard of proof the University will investigate under the relevant discipline procedure/process.
- 8.4 The Director Human Resources can determine to suspend a Staff Respondent (Precautionary Measure) during an investigation based on a risk assessment and/or on the recommendation of the Sexual Misconduct Officer. These decisions will be made in accordance with the JCU Enterprise Agreement or relevant policy for Affiliates.
- 8.5 The Director Student Services will consider if a Student Respondent should be suspended during an investigation based on a risk assessment and/or on the recommendation of the relevant Sexual Misconduct Officer.
- 8.6 **Investigation.** All parties subject to an investigation will be afforded Natural Justice and have the right to have a support person/Representative with them.
- 8.7 The Director Human Resources or Director Student Services will investigate or cause to be investigated an allegation of Sexual Assault against Staff and Student Respondents respectively. An internal or external investigator may be appointed. An investigator must be independent of the parties of the investigation.
- 8.8 The investigation report will be provided to the Director Human Resources for Staff Respondents for determination of Misconduct or Serious Misconduct as defined under the JCU Enterprise Agreement.
- 8.9 The Investigation report will be provided to the Director Student Services for Student Respondents for determination of Sexual Misconduct as defined in this Policy.
- 8.10 The investigation report is confidential and will not be provided to the Respondent but will be used to form the allegations as part of the disciplinary processes.
- 8.11 A University investigation will be suspended if a Complainant decides to pursue criminal proceedings. If for whatever reason the criminal process ends, the disciplinary process may recommence.

9. Outcomes of Complaints – Disciplinary Proceedings

- 9.1 If the Director Human Resources finds that the Bullying, Discrimination, Harassment and Sexual Misconduct Policy and/or Staff Code of Conduct has been breached, the University will commence Disciplinary Proceedings. Such proceedings will be undertaken in accordance with misconduct/serious misconduct prescribed for Staff in the JCU Enterprise Agreement, and relevant policy for Affiliates.
- 9.2 If the Director Student Services finds that the Bullying, Discrimination, Harassment and Sexual Misconduct Policy and Student Code of Conduct has been breached, the Director Student Services will determine the disciplinary action required in resolving the Complaint.
- 9.3 Depending upon the severity and implications of the breach, outcomes may include legal action and/or other disciplinary action (such as suspension or termination of employment of a Staff Respondent, or suspension or exclusion from the University of a Student Respondent).

10. False Allegations and/or Vexatious Complaints

- 10.1 Reports (whether oral or in writing) made in bad faith and/or including false information in the course of an investigation may lead to allegations of Misconduct/Serious Misconduct and result in disciplinary action against the person.
- 10.2 If the Complaint is found to be Vexatious, the University may take action against the Complainant under the University's misconduct procedures contained within the JCU Enterprise Agreement or in the case of a vexatious complaint made by a Student, the Student Code of Conduct and Misconduct Procedures.

11. Appealing University decisions

- 11.1 A Student Complainant who is not satisfied with a University decision regarding a complaint of Sexual Assault should refer to the relevant appeal steps in the Student Appeal Policy and Procedures, or the relevant policy for Affiliates.
- 11.2 A Respondent who is not satisfied with a University decision regarding a complaint of Sexual Assault should refer to the appeal process in the JCU Enterprise Agreement (sect 48.4 - 48.5), or the Student Appeal Policy and Procedures, or the relevant policy for Affiliates as applicable.

Related policy instruments

[Code of Conduct](#)

[Explanatory Statement to the Code of Conduct](#)

[Student Code of Conduct](#)

Misconduct Procedures x 3 (to be implemented)

[Higher Degree by Research Code of Practice](#)

[Social Media Policy](#)

[ICT Acceptable Use Policy](#)

[Student Complaint Management Policy and Procedures](#)

[Bullying, Discrimination, Harassment and Sexual Misconduct Policy and Procedures](#) (to be implemented)

[James Cook University Enterprise Agreement](#)

[Adjunct Appointment Policy](#)

Student Appeal Policy (to be implemented)

[HSE-PRO-007 Field Trip Procedure](#)

Schedules/Appendices

1. Sexual Assault Quick Reference Guide
2. Sexual Assault Procedure Flow Chart – Person Subjected to Sexual Assault
3. Sexual Assault Procedure Flow Chart – First Responder

Related documents and legislation

Commonwealth Laws

[Age Discrimination Act 2004](#)

[Australian Human Rights and Equal Opportunity Commission Act 1986](#)

[Disability Discrimination Act 1992](#)

[Disability Standards for Education 2005](#)

[Fair Work Act 2009](#)

[Racial Discrimination Act 1975](#)

[Sex Discrimination Act 1984](#)

[Workplace Gender Equality Act 2012](#)

Queensland State Laws

[Anti-Discrimination Act 1991](#)

[Criminal Law Amendment Act 1993](#)
[Crime and Corruption Act 2001](#)
[Disability Services Act 2006](#)
[Industrial Relations Act 2016](#)
[Work Health and Safety Act 2011](#)
[Workers Compensation and Rehabilitation Act 2003](#)

Administration

Approval Details

Sponsor/s	Vice Chancellor
Approval Authority	Vice Chancellor
Date for next review	October 2019

Revision History

Version	Approval date	Implementation date	Details	Author
18-1	05/07/2018	09/07/2018	Procedure established.	Vanessa Cannon, Chief of Staff

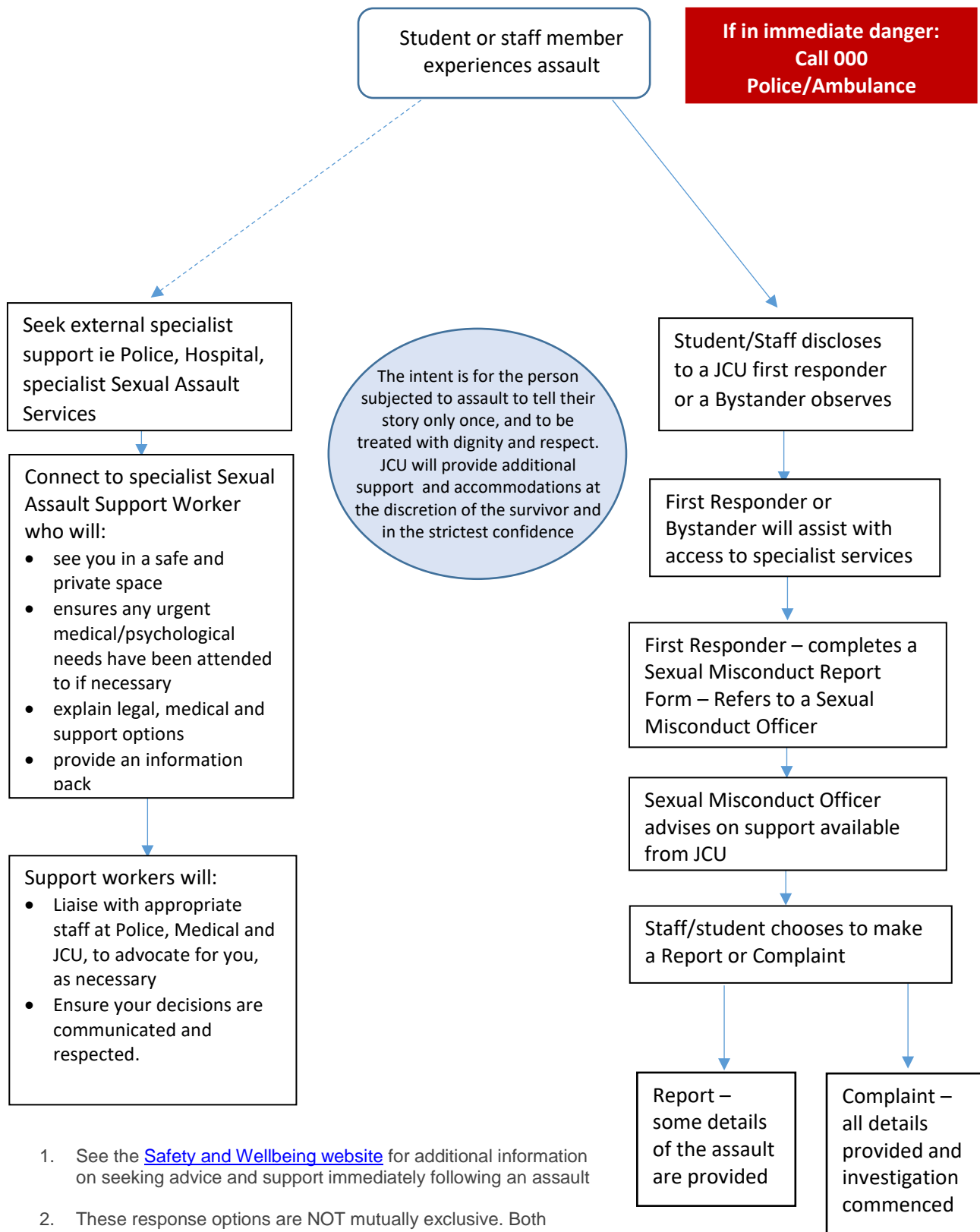
Keywords	sexual harassment, violence, abuse, assault, consent, disclosure, sexual misconduct
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Contact Person	Vanessa Cannon, Chief of Staff
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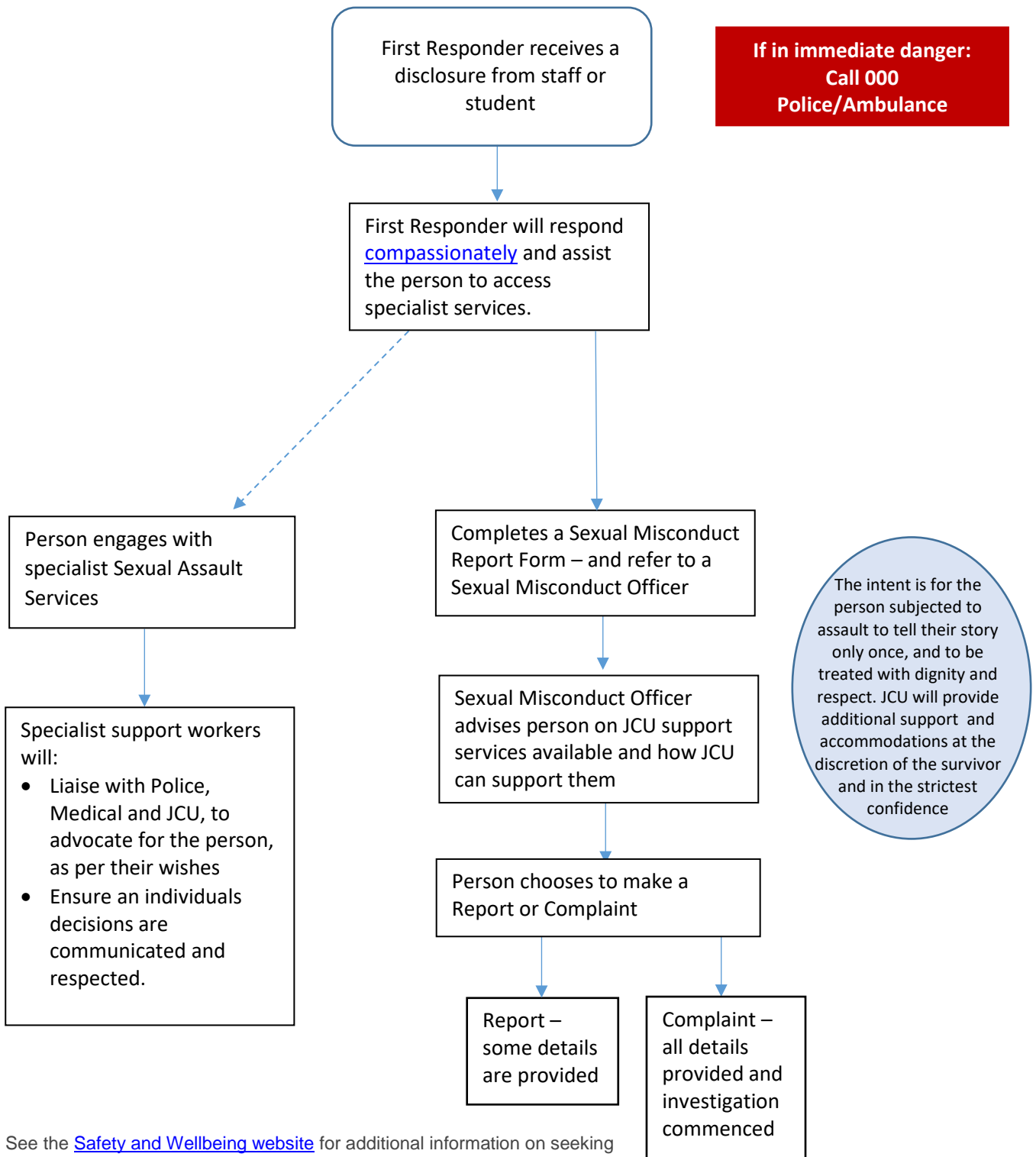
Appendix 1 - Sexual Assault Quick Reference

Sexual Assault: Integrated Response - Trauma Informed / Survivor centred	Community	Specialist Sexual Assault Services <ul style="list-style-type: none"> In all cases of sexual assault, JCU will support a person subjected to sexual assault to access the specialist Sexual Assault Services (details below). Specialist workers will meet the person in a safe and private place, and are trained to understand the unique concerns that this person may have, and can offer ways to help them manage the physical and emotional effects of sexual assault. Will explain legal, medical options. Will liaise with Police, Medical Services to advocate for the person as necessary, ensure their decisions are communicated and respected. Will provide information on accessing the support available at JCU, and on the ability to make a Report and Complaint at JCU, and will advocate for the person as necessary.
		<p>Townsville Sexual Assault Support Service (07) 4775 7555</p> <p>Cairns Sexual Assault Service (07) 4031 3590</p> <p>Mackay Sexual Health and Assault Service (07) 4968 3919</p> <p>Mt Isa Sexual Assault Service (07) 4744 4826</p> <p>After hours (Mt Isa Hospital) (07) 4744 4444</p> <p>Tableland Sexual Assault Service (07) 40914036</p> <p>Royal Brisbane & Women's Hospital Sexual Assault Response Team (07) 3646 5207</p> <p>Statewide Sexual Assault Helpline 1800 010 120</p> <p>1800 Respect (24 hour sexual assault and DV support) 1800 737 732</p>
		Emergency Department of Hospital <ul style="list-style-type: none"> If emergency situation, call 000. Can do forensic examination to collect evidence within two weeks of the incident, regardless of whether Police are contacted. Will provide medical care including STI/Pregnancy treatment and prevention as indicated. Will provide referrals for follow up care, and connect person with Sexual Assault Support Services.
		Police <ul style="list-style-type: none"> If emergency situation, call 000. Will ensure safety and wellbeing. Will provide information and support with anonymous, information and formal reporting options to Police. Will connect person with the Sexual Assault Support Services.
	University	JCU Security <p>In emergency situation, call 000.</p> <p>JCU security is available 24/7 to report any incident or behaviour, and will also follow up with Police and emergency services as necessary. 1800 675 559 Report all security incidents as early as possible to the Security Office or a Security Officer. Any emailed reports should be sent to security@jcu.edu.au (for Townsville) or cairnssecurity@jcu.edu.au (for Cairns).</p>
		Sexual Misconduct Officers <p>Provide a single point of contact at JCU for a person who has been subject to Sexual Harassment or Sexual Assault, or to the Manager or person supporting that person. Sexual Misconduct Officers will support people to access the specialist Sexual Assault Support Services to meet the needs of staff and students.</p> <p>Sexual Misconduct Officers can facilitate Accommodations and Precautionary Measures, and provide support with making a Report, or Complaint to the University and connect with internal counselling support.</p> <p>Designated Sexual Misconduct Officers at the University are the Chief of Staff, Manager Student Equity and Wellbeing (for students), the Manager of Staff Equity and Diversity (for staff).</p>
		Residential College Staff <p>Principals, Deputy Principals, Managers Halls of Residence, Support Officers and Residential Assistants will apply this policy and procedure, and will work with the Sexual Misconduct Officers</p>
		JCUSA Student Advocates <p>JCUSA Student Advocate and Welfare Officers provide free information, advocacy and referral on a range of issues relating to students. Tel: 1800 330 021. JCUSA will apply this policy and procedure, and will work with the Sexual Misconduct Officers.</p>

Appendix 2: Flowchart Person Subjected to Sexual Assault



Appendix 3: Flowchart First Responder to a disclosure of Sexual Assault



1. See the [Safety and Wellbeing website](#) for additional information on seeking advice and support immediately following an assault
2. These response options are NOT mutually exclusive. Both internal to JCU and criminal reports may be made. Survivors are encouraged to pursue whatever routes they feel will be most helpful