

# Student Discipline Policy

## 1. PURPOSE

To outline the framework within which Holmesglen Institute deals with the general misconduct of student/s excludes academic misconduct.

## 2. SCOPE

Applies to all commencing and continuing student/s.

## 3. POLICY STATEMENT

All students and staff have the right to be treated fairly and with dignity in an environment free from disruption, intimidation, harassment, victimisation and discrimination.

Inappropriate behaviour that causes imminent risk to the safety of the student, other student/s, or Holmesglen community or property will be treated as general misconduct under this Policy.

## 4. PRINCIPLES

- 4.1 All students are obliged, as part of their enrolment and admission, to read and comply with the Student Rights and Obligations, and all other standards of behaviour required by Holmesglen's policies and procedures.
- 4.2 Holmesglen staff are authorised by the Chief Executive to have the powers to impose penalties, summarily or otherwise, where a student general misconduct is proven and the imposition of a penalty is warranted.
- 4.3 General misconduct includes conduct by a student who knowingly or recklessly:
  - (a) causes or threatens to cause harm of any kind (physical, psychological, emotional, or other);
  - (b) causes or threatens to attack, harass, intimidate, stalk, victimise, vilify or bully another person;
  - (c) causes or threatens to engage in any form of non-consensual sexual activity;
  - (d) disrupts the orderly conduct or activities of Holmesglen;
  - (e) otherwise breaches a Holmesglen policy or procedure.Full descriptions of general misconduct offences are listed in the Appendix 3 of this Policy.
- 4.4 General misconduct investigation and penalty decision is made in accordance with the principle of procedural fairness, equal opportunity, and natural justice.
- 4.5 Penalties for student general misconduct may include:
  - reprimanding the student/s
  - withholding AQF certification
  - excluding a student from a course or part of course for a period of time
  - refusing student/s the right to enrol
  - excluding student/s from examinations or tests
  - seeking to recover damages or compensation
  - refusing access to Holmesglen's systems, services and physical precincts.
  - expelling student/s.
- 4.6 Student/s must not use social media to bring Holmesglen and members of its community into disrepute, to harm or damage Holmesglen academic and professional activities, to disclose confidential information obtained through Holmesglen, or to act unlawfully. A breach of this policy may result in disciplinary action against the student/s. Holmesglen reserves the right to

edit, remove or restrict, or request the student to remove any comment, post or other online content which breaches this policy or any Holmesglen policies or procedures.

- 4.7 A penalty is imposed:
- as a result of an investigation, or
  - where immediate action is to be taken against a student in relation to general misconduct, or
  - when there are reasonable grounds to suspect general misconduct by that student.
- 4.8 The following factors are taken into account when deciding on the severity of the penalty:
- personal circumstances of the student,
  - the harm, discomfort or offence caused to others by the general misconduct,
  - the value of any damage that has resulted from the general misconduct,
  - the risk that the general misconduct posed to the health and safety of any other persons,
  - the damage or disruption or the risk of damage or disruption to the operations of Holmesglen or the reputation of Holmesglen and its staff and students,
  - any remorse, or lack thereof, shown by the student in relation to the general misconduct,
  - the appropriateness and availability of other preventative and corrective actions,
  - the need to deter other student/s from engaging in general misconduct,
  - any previous findings of general misconduct,
  - any other relevant factor.
- 4.9 Where a penalty is imposed, the student will be given notice in writing outlining the details of their general misconduct and details of the penalty. A record of the notice, its findings and penalties imposed must be retained against the student record.
- 4.10 Fraudulent activities and any other reportable offences are reported to the authorities and regulatory bodies, where relevant.
- 4.11 Penalties imposed are documented on Student Disciplinary Register, and reported to the Chief Executive.
- 4.12 Where the penalty imposed requires the student to pay for damages caused by the student, the Chief Financial Officer will attest to the value of the property damaged.
- 4.13 Student/s have the right to appeal penalties imposed by the Chief Executive, Chief Financial Officer, or Executive Directors, in writing to the Chief Executive who will form a Student Discipline Appeals Committee with an independent Chair to hear the appeal.
- 4.14 Disciplined student has the right to seek assistance of a support person in preparing and submitting the appeal, and presenting his or her case at the hearing. The support person must not be:
- (a) a person who was involved in, associated with, or alleged to have been involved in or associated with the general misconduct alleged; or
  - (b) a qualified legal practitioner.
- 4.15 The Chair of the Student Discipline Appeals Committee will advise the student its determination in writing and its decision is final.
- 4.16 Where an appeal is upheld the opportunity is given to the student so far as practicable, to make up any academic ground lost during any period of exclusion which may include waiving of tuition fees for up to one academic year.
- 4.17 Student circumstances will be taken into consideration for any suspension, deferment of the penalty or time for payment.
- 4.18 Holmesglen ensures students are informed of this policy, and the Student Rights and Obligations are published on the website.

- 4.19 In the event an international student is under investigation, the Associate Director, International Centre is to be informed and included. The International Centre is to ensure that Holmesglen's Internal Complaints and Appeals process and an independent external appeal process has concluded prior to any suspension or cancellation of the international student enrolment. Suspension or Cancellation of an international student does not take effect until the internal appeal process is completed, unless the international student's health or wellbeing, or the wellbeing of others is likely to be at risk.
- 4.20 Any person or Committee who exercises any power or carries out any function under this policy or hears any appeal must treat the subject matter thereof in the strictest confidence, unless required or permitted otherwise by law.

## 5. DEFINITIONS

Terms	Meaning
Bullying	Repeated, unreasonable behaviour directed towards another person that creates a risk to the health and safety of that person.
Confidential information	Information of any kind which, because of its confidential character, is capable of protection by contractual or equitable means, and includes information of a valuable commercial or technical character.
Cyberbullying	Any use of information and communication technology (ICT) to support deliberate, repeated, hostile behaviour by an individual or group that is intended to harm others.
Expel	The permanent removal of a person's right to be a student of Holmesglen and to enter and to be in any of the precincts of Holmesglen.
Harassment	Any unwelcome and unreasonable conduct, whether it be verbal, physical, electronic or otherwise, towards another person in circumstances where a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.
Investigation	A process by which an authorised Holmesglen staff member makes reasonable inquiries about the circumstances surrounding the suspected misconduct of a student, conducted in accordance with the principle of procedural fairness.
Precincts of Holmesglen Institute	Includes: <ul style="list-style-type: none"> <li>▪ all Holmesglen campuses,</li> <li>▪ all places and buildings outside Holmesglen campuses used by Holmesglen, whether occupied by Holmesglen solely or in conjunction with or by others,</li> <li>▪ all places to which a student or students have access from time to time for the purpose of tuition, study or in connection with any educational program of Holmesglen or for student services or for social or recreational purposes.</li> </ul>
Sexual assault	The intentional touching of another in a sexual manner, where consent has not been given. Touching includes that done with any part of the body or object and may be 'sexual' due to the area touched, or circumstances of the touching. Sexual assault includes any unwanted sexual behaviour that makes a person feel uncomfortable, threatened or scared. It covers: <ul style="list-style-type: none"> <li>▪ rape: forced, unwanted sex or sexual acts.</li> </ul>

Terms	Meaning
	<ul style="list-style-type: none"> <li>▪ child sexual abuse: using power over a child to involve that child in sexual activity.</li> <li>▪ indecent assault: indecent behaviour before, during or after an assault.</li> </ul> <p>Sexual assault is a subset of sexual harassment.</p>
Sexual harassment	<p>Is defined as:</p> <ul style="list-style-type: none"> <li>▪ an unwelcome sexual advance</li> <li>▪ an unwelcome request for sexual favours</li> <li>▪ engaging in other unwelcome conduct of a sexual nature that is offensive, humiliating or intimidating.</li> </ul> <p>Examples of sexual harassment include staring or leering, unwelcome touching, suggestive comments, taunts, insults or jokes, displaying pornographic images, sending sexually explicit emails or text messages, and repeated sexual or romantic requests. It also includes behaviours that may be considered criminal offences, such as sexual assault, stalking or indecent exposure.</p>
Social media	<p>Means any facility for online publication and commentary using highly accessible, expandable and upgradable publishing technologies, through and on the internet. It is an interactive tool that facilitates comments and/or conversations that expand the reach of work and enables others to share with friends and networks, and includes, but is not limited to, blogs, wikis, pod casting, forums, video and photo posting, RSS, social bookmarking, tagging, mash ups, virtual worlds and any social and professional networks or networking sites including, but not limited to, Facebook, LinkedIn, Twitter, Pinterest, Instagram, Google+ and Flickr.</p>
Student	<p>Includes commencing and continuing student/s, and students on intermission or deferral.</p>
Suspension	<p>The removal for a specified time period of a person's right to enter, to remain and to participate in all or specified parts of the precincts of Holmesglen and all or specified facilities, classes, examinations, tests and other activities of or under the control of Holmesglen ("suspend" shall have a similar meaning).</p>

## Appendix 1 – General misconduct offences

General misconduct may include but is not limited to:

1. Any conduct that is prejudicial to the good order and discipline of the Institute, impairs the reasonable freedom of other persons to pursue their studies or research at the Institute or to participate in the life of the Institute, or is likely to bring the Institute into unjustified disrepute.
2. Wilful, reckless or negligent failure to comply with Holmesglen rules, policies, or similar order, direction or authorised notice.
3. Failure to comply with any reasonable instruction of a member of the Board or staff of the Institute whether pursuant to the Institute Rules or generally, including any instruction given to a student to identify themselves by the production of an identity card or otherwise.
4. Any act that represents fraudulent activities including the falsification of certification documentation in paper or electronic format with the intention that he/she, or another person, shall use it to induce another person to accept it as genuine.
5. Failure to comply with any instruction relating to the safety of the student or of any other person.
6. Any assault or threat of assault upon any person within or near the precincts of the Institute or in relation to any activity conducted or facilitated by Holmesglen.
7. Any wilful false representation whether oral or written (including, statements, graphics or photos on social media) on a matter concerning or affecting Holmesglen reputation, the student or other student/s, or Holmesglen staff.
8. Grossly negligent or wilful conduct that adversely affects the due conduct of the business of the Institute, or the work of any person in that person's capacity as a student or member of the staff of the Institute.
9. Conduct within the precincts of the Institute that is disorderly including obscene language and verbal threats that interferes with the comfort of any person who is acting lawfully and entitled to be present.
10. Discriminating against other student/s or staff in a way which is against the spirit or content of the Equal Opportunity legislation.
11. Exhibiting unsocial or disruptive behaviour in classes, lectures or other timetabled activities.
12. Use of profane or offensive language, content or objectionable material on social media that:
  - (a) promotes, fosters, or perpetuates discrimination;
  - (b) is sexually explicit or pornographic or links to sexually explicit or pornographic content;
  - (c) is used to intimidate, bully or harass (including, but not limited to, cyber bullying and stalking) a Holmesglen staff member, contractor, student or other person;
  - (d) creates a risk to the health and safety of Holmesglen staff members or student/s including material that amounts to unacceptable behaviour such as psychological or emotional violence, coercion, harassment and/or discrimination, aggressive or abusive comments or behaviour, and/or unreasonable demands or undue pressure; and/or
  - (e) brings Holmesglen into disrepute.
13. Being alcohol or drug affected within the precincts of the Institute.
14. Smoking in prohibited areas.
15. Wilful or negligent damage, destruction, removal or interference with any property of the Institute, including infringement of Copyright legislation, wheresoever situated or that of any other student or member of the staff of the Institute, or of any person, firm or corporation within the precincts of the Institute.
16. Wilfully entering any part of the precincts of the Institute, or any other place to which student/s may have access for the purposes of tuition, when not entitled to do so, or having so entered, refusing to leave.

17. Knowingly posting or publishing any confidential information of, or held by, the Institute.
18. Unauthorised or illegal interference with, or access to, electronic resources and/or records or data which are either the property of Holmesglen or accessible through Holmesglen resources. This includes, but is not limited to, conduct in breach of any of the guidelines in the Electronic Mail and Web Services Code of Practice published on the student intranet.
19. Possession of, or threat of using weapons or dangerous chemicals/substances within or near the precincts of the Institute.
20. Possessing, using or trafficking in a Drug of Addiction or Drug of Dependence within the meaning of the Crimes Act 1958 or the Drugs, Poisons and Controlled Substances Act 1981, or any Act in substitution thereof.
21. Failure to pay fines or other financial penalties imposed by the Institute.
22. Participation in, or conviction for a criminal offence committed within the precincts of the Institute or in any way related to the Institute or any student or member of the staff.
23. Participating in behaviour or activity that is described in the Child Safe Standards and Equal Opportunity Act, including bullying, cyber bullying, harassment (including sexual assault/sexual harassment), or unlawful discrimination.