



Sexual Violence and Misconduct: Procedure for Staff

1. Purpose

- 1.1. This procedure sets out how the University will deal with incidents of Sexual Violence and Misconduct by staff members of the University community. The procedure should be read in conjunction with the [Anti-Harassment Policy](#) and the [Disciplinary Policy](#).

2. Scope

- 2.1. This procedure applies to all alleged incidents of Sexual Violence and Misconduct by members of the staff community. Provided that the Responding Party is a member of staff, this procedure will apply, no matter who the Reporting party is.
- 2.2. If the Responding Party is a student, action will be taken in accordance with the Sexual Violence and Misconduct Procedure for Students alongside the Student Disciplinary Policy. If a decision is taken not to deal with a case under this Procedure then the Reporting Party can request a review of that decision in accordance with the review process summarised below.
- 2.3. This procedure has been written in line with The Equality Act 2010, which protects the following people against sexual harassment at work:
 - Employees and workers
 - Contractors and self-employed
 - Job applicants
 - Volunteers

3. Support

- 3.1. Support resources are available to any member of the University who discloses an incident regardless of whether or not they make a Report to the University or Police.
- 3.2. Support is available to both the Reporting and Responding Parties and any other staff members involved, through the HR Department or specially trained staff in Student Wellbeing Services (if a student). This may include signposting or referral to external services. A different member of the HR Department or Student Wellbeing Services will be assigned to support each of the Reporting and Responding Parties to ensure impartiality and will be available to support

each of them throughout the process.

4. What is Sexual Misconduct and Consent

- 4.1. Sexual Misconduct is any kind of unwanted behavior of a sexual nature, or sexual contact that a person did not consent to. For the purpose of this Procedure, whether or not the Responding Party intended to be offensive is irrelevant. A single incident or persistent behaviour can amount to harassment; the Reporting Party doesn't need to have previously objected to the Responding Party's behaviour for it to be considered unwanted.
- 4.2. The definition of consent as defined in the Sexual Offences Act 2003 is agreeing by choice and having the freedom and capacity to make that choice. A person consents to sexual activity if they agree by choice and have both the freedom and capacity to make that choice. Consent needs to be given freely and with full capacity to do so – this capacity is impaired or not present when drunk, under the influence of drugs, asleep, unconscious, or coerced for example. A person may also not have capacity to give consent if they have a disability or impairment, including learning difficulty, physical disability or mental health condition. Capacity is about whether someone is physically and/or mentally able to make a choice and to understand the consequences of that choice. Consent is an enthusiastic "yes" to sexual contact, a clearly expressed willingness to have sex, indicated verbally and/or through body language, and talking and listening to each participant about what people do and don't want to do. Saying yes to one thing doesn't mean a person consents to anything else – consent needs to be checked throughout sexual activity and sexual activity should stop if a person stops indicating consent, rather than being pressurised to continue.
- 4.3. Sexual Misconduct is any unwanted sexual act or activity. There are many types of sexual violence that exist on a continuum, including but not restricted to: rape, sexual assault, sexual harassment, coercion, assault within relationships, stalking, intimate image abuse and voyeurism. Sexual misconduct also includes specific acts committed during sex which were not consented to e.g. strangulation/choking, sex that is very rough/violent, coercion to engage in specific acts such as anal or oral sex, and coercion to engage in acts common in pornography.
- 4.4. Sexual Harassment is unwanted behaviour of a sexual nature that has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment. Examples of sexual harassment include:

- Displaying sexually graphic pictures, posters or photos
- Making promises in return for sexual favours
- Physical conduct of a sexual nature, unwelcome physical contact or intimidation;
- Persistent suggestions to meet up socially after a person has made clear that they do not welcome such suggestions;
- Showing or sending offensive or pornographic material by any means (eg by text, video clip, email or by posting on the internet or social media);
- Unwelcome sexual advances, propositions, suggestive remarks, or gender-related insults;
- Offensive comments about appearance or dress, innuendo or lewd comments, or remarks;
- Leering, whistling or making sexually suggestive gestures; and
- Gossip and speculation about someone's sexual orientation or transgender status, including spreading malicious rumours.

Sexual harassment does not necessarily occur face to face and can be in the form of emails, visual images (such as sexually explicit pictures on walls in a shared environment), social media, telephone, text messages and image based sexual abuse such as revenge porn and upskirting.

5. Police investigations

- 5.1. If a Police investigation is underway, the University may suspend its internal investigation until this is concluded. However, in all instances the University will take any necessary precautionary action in the meantime, as set out in Section 7 of this Procedure.
- 5.2. If the Police or Crown Prosecution Service decide to take no further action or the Responding Party is acquitted after a trial, the University can still act under this procedure and the criminal process doesn't prejudice the disciplinary outcome.
- 5.3. The University does not have the same powers as the Police and cannot determine criminal guilt. The internal process considers cases based on the balance of probabilities and is not a substitute for a Police investigation or criminal prosecution, which has a higher burden of proof (i.e. beyond reasonable doubt).

6. Procedure following a Disclosure and/or Reporting

- 6.1. Disclosure and Reporting are separate actions that the Reporting Party may choose to take.

Disclosure:

- 6.2. A Disclosure may relate to a Responding Party who is, or is not, a member of the University community. A Disclosure does not automatically result in a Report under the Sexual Violence and Misconduct Procedure. The University respects the right of the Reporting Party to choose how to take forward a Disclosure. The University may take action against a Reporting Party's wishes where there are Safeguarding concerns in accordance with the [Safeguarding Policy](#). This will be discussed with the Reporting Party.
- 6.3. If any member of staff receives a disclosure from another member of staff, you must immediately inform a member of the HR Department. Whilst we understand that colleagues may wish to support the Reporting Party, where possible information disclosed to staff outside of the HR Department should be kept to a minimum. This is to limit the number of requests for information a Reporting Party may receive, and to reduce any unnecessary additional distress felt by the Reporting Party through the disclosure and any subsequent reporting process. Staff who receive a disclosure of sexual violence or harassment from a student must inform Student Wellbeing Services.
- 6.4. Following a Disclosure, advice and support will be given to the Reporting Party with respect to options available to them, such as:
- Reporting to the University under the Disciplinary and/or Grievance Policy
 - Not making a report of the incident and/or
 - Receiving advice on the support that is available internally and externally

Reporting:

- 6.5. The reporting process can commence in several ways:
- The Reporting Party may use the Report and Support online platform to make the report, which will be picked up by a member of the HR Department and the Reporting Party will then be contacted to discuss the next steps;
 - The Reporting Party may contact a member of the HR Business Partner Team directly. Please see [HR intranet Sharepoint Pages](#) for names and contact details of the HR Business Partner team.
- 6.6. To make a report involving a staff member to the University, the Reporting Party may submit a written statement of the allegation to HR, indicating the Responding Party and any witnesses. Alternatively, the Reporting Party may choose to make a Report verbally to their HR Business Partner. Notes of any reporting conversations will be taken and shared with the Reporting Party to check for accuracy. These notes may form part of any formal investigation that is deemed

necessary in relation to the allegation(s). In some situations where there is a report of sexual violence and serious sexual misconduct it may be deemed appropriate for an alternative contact to act as the point of verbal reporting. If the Reporting Party is unwilling for the Responding Party to be informed of the allegation against them, it would usually not be possible to take any investigation forward. If a report involves a student, it will be logged by HR for monitoring and reporting purposes and anonymously shared with Student Wellbeing Services for statistical reporting purposes and in line with the GDPR regulations. A Disclosure will usually only become a Report if the Reporting Party wants action to be taken.

- 6.7. A senior member of the HR Department, should be informed without delay of the report and will consider any support needs of the parties involved in the report.
- 6.8. If the Reporting Party is a member of staff, they will be invited to meet with an HR Business Partner following their report, if earlier contact has not been made during the disclosure process, where the formal investigation process will be explained and the Report details confirmed. The HR Business Partner will check whether the Reporting Party has any immediate concerns which need to be considered to mitigate risk, which will feed into the risk assessment process (noted below). The HR Business Partner will explore what the Reporting Party would consider a positive outcome of the process and advise what can be achieved within the scope of the formal procedure being followed. The HR Business Partner will also ensure that the Reporting Party is aware of all the support options that are available to them. If formal action is pursued under the relevant policy, an Investigator will be appointed, and the anticipated investigation timescale will be discussed. The Reporting party will be informed as to how and when they will be updated on progress.
- 6.9. If the Reporting Party is a member of staff, they may request to be accompanied by a trade union representative or a work colleague to a meeting under any stage of this procedure for additional support. If the Reporting Party is a student, they can be accompanied for support at this meeting by a Students' Union Advice Centre representative, another University student, a family member or a friend. Those being supported by an [Independent Sexual Violence Adviser \(ISVA\)](#) from an external specialist agency such as [Safe Link](#) can request that their ISVA support them throughout the reporting process. During the meeting, the formal investigation process will be explained and the Report details confirmed.

7. Risk Assessment

- 7.1. Upon receiving a report, the University will conduct a risk assessment to determine any precautionary measures. These could include no-contact contracts, restrictions on access to certain facilities, or temporary suspension of the Responding Party where deemed appropriate by a Senior HR Manager. Full details of the suspension process can be found in the Staff Disciplinary Policy.
- 7.2. Information gathered from the Reporting Party as part of the HR Business Partner support meeting will feed into the risk assessment considerations.
- 7.3. Once Risk Assessment actions are agreed, the Report will move to the Investigation stage, with any precautionary measures being implemented at the beginning of that stage.

8. Investigation

- 8.1. All members of the University are required to cooperate fully with the investigative process. Failure to do so may result in disciplinary action.
- 8.2. A Senior member of the HR department will appoint an Investigator who will investigate the complaint fully. HR Business Partners will provide advice and guidance to the Investigator on any relevant procedural issues.
- 8.3. In the event that a Senior member of the HR department determines on the balance of probabilities that there may be a breach of the Staff Disciplinary Policy, a suitable Chair will be identified and will initiate the next steps under the University's Staff Disciplinary Policy as deemed appropriate.
- 8.4. Any investigation under this procedure will normally constitute an investigation under the Staff Disciplinary Policy or any other University process for staff.
- 8.5. Following the Risk Assessment (section 7), the investigation will be undertaken in a timely manner. All parties must respect the sensitive nature of the process by maintaining appropriate levels of confidentiality, which means not discussing or sharing details of the case with anyone outside of the investigation. This does not mean that those involved cannot seek appropriate advice and support; all parties may discuss the case with the staff member from the HR Department who is supporting them. Failure to maintain confidentiality, for example by discussing the case with other members of staff or students either in person or online including via social media, may result in disciplinary action.
- 8.6. When an investigation is initiated, the Investigator will conduct fact-finding as to the allegations made against the Responding Party. The investigation may include, but is not limited to, interviews with the Reporting Party, the Responding Party, and other witnesses identified as having information relevant to the allegations made, as well as the examination of written statements by the parties, relevant documents,

and other relevant information.

- 8.7. At this stage, the Reporting Party should provide any evidence they may have e.g. photographs, videos, screenshots, voice notes. The Reporting party should advise the Investigator whether there are any witnesses; witnesses include people who witnessed the events before and after the incident, not just the incident itself. Proceeding with an investigation is not reliant on witnesses or the amount of evidence provided.
- 8.8. During all investigation meetings, notes of the discussion will be taken.
- 8.9. Following each investigation meeting, a copy of the investigation notes will be sent to the relevant party/witness, who will be asked to confirm that the notes are factually accurate and reflect their discussion. They will have the opportunity to make any adjustments before the notes become part of the investigation report.
- 8.10. The purpose of the investigation is to provide each party with a fair opportunity to present their version of events. Investigation meetings will be conducted sensitively and separately, following a trauma-informed approach. The Reporting Party and Responding Party will not attend the same investigation meeting.
- 8.11. The Investigator shall ensure that the Responding Party is informed and given a copy of all allegations raised and is provided with the opportunity to respond to them. The Responding Party also has the right to be accompanied by a fellow worker or a Trade Union representative to the investigation meetings.
- 8.12. Legal professionals are not allowed to accompany any person in any investigations unless they are employees of the University, however they would only be acting in the role of support rather than representing or providing legal representation for the person.
- 8.13. If the Reporting Party has provided details of any witnesses, they may be contacted by the Investigator and asked to attend a meeting, to provide a Statement. Any witness statements will be provided to both the Reporting and Responding Parties. If a witness requests that their statement be anonymised, this will be done, if possible, i.e. where the witness is not identifiable by the information they have provided.
- 8.14. Where it is determined by the investigator that there are material differences between the account of the Responding Party and that of the Reporting Party, the Reporting Party will be made aware of these differences and be given an opportunity to comment on the Responding Party's reply. If the Responding Party has provided any additional evidence, the Reporting Party will also be made aware of this. This gives the Reporting Party a right to reply before the Investigator proceeds further with the case.

9. Outcome

- 9.1. The Investigator will create a report of the investigation setting out:
 - Factual determination(s); and recommendations as to whether the matter

should proceed under the University's Disciplinary Policy or any other University process.

9.2. Based on the Investigators findings Senior HR Manager will consider:

- the decision to move a Disciplinary panel,
- action short of disciplinary,
- or no further action may be taken.

9.3. The Reporting Party and the Reported Party will receive the outcome of the investigation in writing from HR.

10. Appeal

10.1. If the Reporting Party is dissatisfied with the outcome of the investigation or they believe the matter has not been handled fairly in accordance with this procedure, they may request a review in writing to the HR Director within 14 days of receipt of the outcome. This review process can be used if a decision is taken not to consider a case under this procedure or if a decision is made to take no further action following an investigation under this procedure.

10.2. The review request should include details of why the Reporting Party is dissatisfied with the way the case has been handled and demonstrate why this had a substantial, material effect on the decision, or why they believe the outcome is not reasonable together with any supporting documentation.

10.3. The Director of HR or their nominee, may choose to undertake the review if they are independent of the case or will identify a senior member of staff, independent of the case to undertake the review ("Reviewer").

10.4. The request will be reviewed on the basis of the documentation provided by the Reporting party and that was held by the Investigating Officer. The Reviewer may seek further information if necessary. If the Reviewer decides that the case was not handled appropriately, the Reviewer may take whatever action the Reviewer decides is required. If the Reviewer decides that the case has been handled fairly and the outcome was reasonable, the review request will be dismissed.

10.5. The decision of the review request is final.

11. Disciplinary

11.1. In the event that a Senior member of the HR department determines on the balance of probabilities that there may be a breach of the Staff Disciplinary Policy, the process will move to Disciplinary Hearing and a suitable Chair will be identified and will initiate the next steps under the University's Staff Disciplinary Policy as deemed appropriate.

11.2. Following the Disciplinary Hearing, the Panel will deliberate in private to determine whether they believe that misconduct has occurred or not, on the balance of

probabilities. If a Responding Party is found guilty of misconduct, one or more penalties may be imposed by the Disciplinary Panel members, as detailed in the Staff Disciplinary Policy. When determining penalties, consideration will be given to the seriousness of the misconduct, the circumstances of the misconduct, and any mitigating factors i.e. penalties will be appropriate and proportionate to the misconduct which occurred.

- 11.3. The Reporting Party be asked whether they wish the outcome to be conveyed to them in writing, online via a video meeting, via a telephone call, or in person where possible, and followed up in writing. The Reporting party will be informed as per the staff disciplinary policy.

12. Glossary

Disclosure: involves an individual choosing to tell anyone who is part of the University community about their experience of Sexual Violence and Misconduct.

Report: the sharing of information with a staff member of the University about an incident of Sexual Violence and Misconduct experienced by that individual to initiate the investigation process by the University.

Reporting Party: the person(s) who has been the subject of the alleged incident of Sexual Violence and Misconduct.

Responding Party: the person(s) whose behaviour it is alleged amounted to an incident of Sexual Violence and Misconduct.

Trauma-informed approach: this is an approach to dealing with incidents that recognises the widespread impact of trauma and incorporates victim-centred practices.

Balance of probabilities: the balance of probabilities standard means that a disciplinary panel is satisfied that it is more likely than not that an event or incident occurred based on the evidence.

Document Details

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Supersedes:

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