



LIVERPOOL HOPE
UNIVERSITY

175 YEARS OF ACADEMIC
EXCELLENCE

Policy and Process for Handling Sexual Misconduct

Document Control

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1. Policy and Process for Handling Sexual Misconduct

- 1.1. The University does not tolerate any form of sexual misconduct against staff or students. All members of the Liverpool Hope University community are expected to treat each other with [dignity and respect](#). The University is committed to preventing and eliminating all forms of sexual misconduct and will support and help empower its community to challenge inappropriate behaviour.
- 1.2. The University treats reports of sexual misconduct **seriously** and with utmost **sensitivity**. The University aims to support students and staff who have been affected and enable individuals to make choices that they feel are right for them.
- 1.3. Where appropriate, reports of sexual misconduct will be investigated **as potential breaches of the Student Code of Conduct**. If a report is made by a student against a member of staff, this will be considered under the **Student Complaints Policy and Procedure** and may be investigated under the **Staff Disciplinary Procedure**.
- 1.4. This policy does not describe the investigatory procedure following any formal report of sexual misconduct. The procedures are described in the relevant policies in section 3.
- 1.5. This document outlines the process for handling allegations of sexual misconduct. There is also comprehensive online information available at:

<https://www.hope.ac.uk/gateway/students/studentdevelopmentandwell-being/sexualmisconductandharassment/>

2. Terminology

- 2.1. The definitions below have been separated into explanations of the types of behaviour captured under this Policy which amount to Policy breaches and clarification of the terminology used within the Policy.
- 2.2. Any act of **sexual misconduct** is defined as any unwanted conduct of a sexual nature which occurred in person or by letter, telephone, text, email, online learning platforms or other electronic and/or social media and includes, but is not limited to, the following behaviour:
 - sexual intercourse or engaging in a sexual act without consent;
 - attempting to engage in sexual intercourse or engaging in a sexual act without consent;
 - recording and/or sharing private sexual materials of another person without consent (for example: images, video, voice recordings, text message, letters, emails, etc);
 - kissing without consent;
 - touching inappropriately without consent;
 - inappropriately showing or touching sexual organs to another person;
 - making unwanted remarks of a sexual nature.
 - conduct of a sexual nature which creates (or could create) an intimidating, hostile, degrading, humiliating, or offensive environment for others including making unwanted remarks of a sexual nature;
 - complicity in any of the above behaviours.

The **Reporting Party** is the person(s) who has been the subject of the alleged incident of sexual misconduct.

The **Responding Party** is the person(s) whose behaviour it is alleged amounted to sexual misconduct.

A “**Disclosure**” means that an individual tells a member of University staff that they have experienced sexual misconduct. A disclosure is not the same as a report. These are separate acts that the Reporting Party may choose to take.

A “**Formal Complaint**” to the University regarding an individual’s experience of sexual misconduct is an instruction for the University to take appropriate action. The complaint will allow the University to investigate the misconduct.

Consent is the agreement by choice where the individual has both the freedom and capacity to make that choice. Consent cannot be assumed on the basis of a relationship, a previous sexual experience or previously given consent, or from the absence of complaint, and each new sexual act requires a re-confirmation of consent as the foundation of a healthy and respectful sexual relationship. Consent may be withdrawn at any time before or during a sexual act.

Freedom to consent: For consent to be present, the individual has to freely engage in a sexual act. Consent cannot be inferred from a lack of verbal or physical resistance. Consent is not present when submission by an unwilling participant results from coercion, force, threat, intimidation or the exploitation of power.

Coercion or Force includes any physical or emotional harm or threat of physical or emotional harm which would reasonably place an individual in fear of immediate or future harm, with the result that the individual is compelled to engage in a sexual act.

Capacity to consent: Free consent cannot be given if the individual does not have the capacity to give consent. An individual is incapacitated when asleep, unconscious, semiconscious, or in a state of intermittent consciousness, or any other state of unawareness that a sexual act may be occurring. Incapacitation may occur on account of a mental or developmental disability, or as the result of alcohol or drug use.

Alcohol and/or Drug Use: Incapacitation arising from alcohol or drug consumption should be evaluated on the basis of how the alcohol/drugs have affected the individual; signs of incapacitation may include, but are not limited to, one or more of the following: slurred speech, unsteady gait, bloodshot eyes, dilated pupils, unusual behaviour, blacking out, a lack of full control over physical movements, a lack of awareness of circumstances or surroundings, and/or an inability to communicate effectively. Intoxication is never a defence for committing an act of Sexual Misconduct, or for failing to obtain consent.

Vexatious reporting involves the creation of persistent, unwarranted reports made under the Sexual Misconduct and Violence Policy, or a refusal to accept any reasonable decisions arising from the application of the accompanying procedures to this Policy.

Malicious reporting occurs when an individual shares allegations of Sexual Misconduct that the individual knows to lack a basis in fact.

Complicity is any act that knowingly helps, promotes, or encourages any form of Sexual Misconduct and Violence by another individual. Anyone accused of complicity will be subject to the Student Code of Conduct.

Retaliation may constitute any words or actions, including intimidation, threats, or coercion, made in response to disclosures or reports made by any individual including both the Responding Party and the Reporting Party, as well as witnesses, friends, or relatives.

3. Responsibilities

- 3.1. The Pro Vice Chancellor Student life & Learning and the Deputy Vice Chancellor are the members of the University executive responsible for this Policy.
- 3.2. This Policy shall be read in conjunction with
 - [Student Code of Conduct](#)
 - [Student Complaint Procedure](#)
 - [Staff Discipline Policy](#)
 - [Dignity at Work and Study Policy](#)
 - [Safeguarding Policy](#)
 - [Fitness to Practise Policy](#)

4. Making a Disclosure

- 4.1. A disclosure is made when someone tells a member of University staff that they have experienced sexual misconduct. A disclosure can be made in person, online or via other means such as phone or email. The University has an [online form](#) to help facilitate disclosures.
- 4.2. Disclosure does not create a formal complaint, and is not an instruction for the University to take action. The person who has disclosed will have the opportunity to be heard and to consider their options before proceeding with any further steps.
- 4.3. No action will be taken immediately by the University without the reporting party's consent unless there is a concern about immediate safety or if the University has a duty under safeguarding or Fitness to Practise.
- 4.4. The University recognises that students may disclose an incident of sexual misconduct to any member of staff whom they trust. A staff member can contact the Student Development and Wellbeing team for advice on how best to support students, and may do so without disclosing the student's identity. Where a member of staff has received a disclosure in person or via other means, they may submit a disclosure on behalf of the person who has disclosed, with their permission, via the University's online reporting tool. The person who has chosen to disclose does not need to provide the full details of their experience if they do not wish to. They will not be pressured to make a formal complaint and they can remain anonymous (albeit with the limitations explained). However, it is important that **any member of staff to whom a disclosure is made acts** to ensure that the incident has been reported to the Head of Student Welfare and Wellbeing.
- 4.5. No staff member who receives a disclosure should attempt to investigate the incident or inform the Responding Party or any other student of the disclosure.
- 4.6. If, following an initial disclosure, the student chooses not to take any further action, the member of staff should agree with them the details of any records kept about the disclosure. The staff member should notify the student that they will inform the Head of Student Welfare and Wellbeing that a disclosure has been made, the level of detail should be agreed with the student in advance of doing so.

- 4.7. Where a person chooses to disclose anonymously, no action will usually be taken on the basis of their disclosure. Anonymised data will help the University to understand patterns in behaviour and inform future policy.
- 4.8. All disclosures whether anonymous or not and whether via the online tool or through a member of staff will be referred to the Head of Student Welfare and Wellbeing (or a nominated member of staff) who will coordinate an initial review.
- 4.9. Where appropriate and with the required sensitivity, The Head of Student Welfare and Wellbeing will oversee a support package tailored to the individual needs of students.

Examples of support include:

- Counselling
- Adjustments to timetables or extenuating circumstances
- Changes to accommodation
- Support with accessing specialist external services e.g. Sexual Assault Referral Centres, Rape Crisis Centres or other agencies as necessary.
- Providing information about the different reporting options, including reporting to the police, and the University's procedures for investigating Sexual Misconduct.
- Discussing the benefits of preserving evidence.
- Referral to the caseworker for action under the Student Code of Conduct
- Signposting to the SU Advice Service

5. Options Following a Disclosure

- 5.1. After disclosure there are some options available to the person who has disclosed their experience. They can choose the level and types of support that are right for them.
- 5.2. After discussion with Head of Student Welfare and or suitable nominee the person who has disclosed may choose to:
- (a) **Take no further action at this time:** In this case advice will be provided regarding the preservation of evidence which may be needed if they subsequently decide to make a report to the Police or to submit a formal complaint to the University. They will also be informed of the ongoing support available to them via the Student Development and Wellbeing team.
 - (b) **Make a report to the Police:** In this case no disciplinary action will normally be taken by the University whilst a Police investigation and legal proceedings are taking place. Support will however still be available from the Student Development and Wellbeing team.
 - (c) **Make a formal complaint to the University:** If the person who has disclosed chooses this option they will be asked to confirm that they wish the University to proceed with a formal investigation. Support will be available from the Student Development and Wellbeing team.
- 5.3. In all cases, the University will advise the Reporting Party that it does not have the legal investigatory powers of the Police and cannot make a determination of criminal guilt. The University will highlight the limitations of a University investigation so the Reporting Party can make an informed decision, emphasising that an internal investigation is focused exclusively on whether there has been a breach of the Student Code of Conduct.

- 5.4. Where the incident is reported to the Police and results in a criminal investigation or judicial proceedings, the University will ordinarily suspend any ongoing investigation, focusing instead on ensuring that the appropriate safeguards and support are in place for all involved parties. The investigation will resume at the conclusion of the criminal investigation or judicial proceedings.
- 5.5. Where a student has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of this Policy, the conviction/caution will be taken as conclusive evidence that the behaviour took place and no further investigation on that issue shall be required by the University. The case will normally be referred to a Disciplinary Panel in line with the provisions laid down in the Code of Conduct for Students.
- 5.6. A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action in relation to a criminal matter, or an acquittal at a trial, does not preclude the University from taking action under the Student Code of Conduct and this Policy. Equally, this outcome should not of itself be taken to mean that the Reporting Party has made a vexatious or malicious complaint.

6. Procedure Following a Formal Complaint

- 6.1. If the allegation is against a Liverpool Hope University student this will be considered in line with the [Student Code of Conduct](#) and this policy should be read in conjunction with that.
- 6.2. The Responding Party will be offered pastoral support and will also have the opportunity to access the Student Development and wellbeing services throughout the matter.
- 6.3. If an allegation is made against a member of staff, this will be considered under the Student Complaints Procedure and may be investigated under the Staff Disciplinary Procedure.
- 6.4. Both the Reporting Party and the Responding Party have the right to appeal.
- 6.5. If the matter is investigated under the Student Code of Conduct and there are no grounds for appeal or if an appeal is unsuccessful, a Completion of Procedures (COP) letter will be issued to the Responding Party, and both parties will be signposted to ongoing Wellbeing support. If the Responding Party wishes to refer their case to the Office of the Independent Adjudicator (OIA) for review, the COP letter will enable them to do so. The Reporting Party will receive a stage 2 outcome letter and will be informed that they can submit a stage 3 complaint to the University

[https://www.hope.ac.uk/media/gateway/studentgateway/supportandwellbeing/studentadministrationdocuments/Student Complaints Policy and Procedure 151019.pdf](https://www.hope.ac.uk/media/gateway/studentgateway/supportandwellbeing/studentadministrationdocuments/Student_Complaints_Policy_and_Procedure_151019.pdf)

- 6.6. Upon completion of the stage 3 complaints process, if the Reporting Party is dissatisfied with the outcome, they will receive a COP letter which will enable them to refer their case to the OIA for review.

7. Confidentiality and Information Sharing

- 7.1. The University recognises the importance of privacy for disclosures and formal complaints of cases of sexual misconduct and will only share information on a confidential, need-to-know basis.

- 7.2.** Confidentiality is not absolute secrecy. There may be circumstances where it is necessary or appropriate to share information either within the University or with external organisations/bodies, for example to:
- 7.2.1.** Allow a case to be appropriately considered and investigated;
 - 7.2.2.** Ensure those who disclose an experience or are alleged to have committed misconduct receive appropriate academic and pastoral support
 - 7.2.3.** Safeguard members of the University community and fulfil the University's duty of care;
 - 7.2.4.** Discharge the University's duties or as required by law.
- 7.3.** The outcome of an investigation, Discipline Panel or Appeal will be shared with both parties (ie Reporting and Responding Party) and this will include setting out the rationale for the decision.
- 7.4.** All personal data is recorded and held in accordance with Data Protection laws. Cases of sexual misconduct will be retained in line with the University's relevant Retention Schedule. The University will retain anonymised data to understand patterns of behaviour and to inform future policy.