

# STUDENT SEXUAL MISCONDUCT AND VIOLENCE POLICY

## Purpose and Context

This policy outlines the University's approach to providing a safe, inclusive and welcoming environment for all, through its management of cases of sexual misconduct and violence and the support it provides to all students affected.

## Scope

It applies to all students of the University, regardless of the level, location or mode of study.

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## 1. Introduction

- 1.1. The University recognises that incidents of sexual misconduct and violence and/or relationship abuse occur within the University community, and that experiencing such misconduct or abuse can have a significant negative impact on individuals. We are committed to supporting all affected students, as well as supporting members of the University community (peers, personal tutors, etc.) to whom such experiences are disclosed.
- 1.2. Sexual misconduct and violence refers to a broad spectrum of behaviours that cannot be divorced from other types of gender- and sex-based violence and/or relationship abuse including, but not limited to, intimate partner violence or domestic abuse, coercive and/or controlling behaviour, and stalking. Further detail and definitions are provided in section 4 below.
- 1.3. The University acknowledges that sexual misconduct and violence can be experienced by any individual, regardless of their identity. The University is committed to promoting a culture in which any incidents of sexual misconduct and violence and/or relationship abuse will not be tolerated and will be thoroughly addressed to ensure the preservation of a safe study and work environment.

## 2. Scope

- 2.1. This Policy relates to all incidents of sexual misconduct and violence and/or relationship abuse, as well as domestic abuse and coercive or controlling behaviour, complicity, retaliation, vexatious reporting, and malicious reporting as defined in Section 4.
- 2.2. It applies to all students whether the behaviour is experienced on campus or elsewhere. We recognise that sexual misconduct and violence can be experienced by any individual, regardless of sex, gender, sexual orientation, relationship status, age, disability, faith, ethnicity, nationality and economic status.
- 2.3. Where the reporting party is a student, we will offer or signpost to appropriate support and advise on the choices available to the reporting party.
- 2.4. Where the responding party is a student, we will investigate the allegation under the Student Disciplinary Procedure, and possibly refer the case through the Fitness to Practise Procedure if the student is registered on a course leading to a professional qualification.
- 2.5. Where experiences of sexual misconduct and violence intersect with other forms of harassment

and discrimination, these may be addressed by the Dignity at Study Policy.

- 2.6. Behaviour that is initially reported and addressed through relevant Students' Union policies may also be subject to this University policy and escalated through the student disciplinary procedure. Likewise, any behaviour initially raised under this policy may be referred to the Students' Union where appropriate.

### 3. Principles

- 3.1. The University is committed to establishing a culture of support and respect.
- 3.2. All members of the University community are responsible for upholding the following principles and taking the following actions:
- 3.2.1. We recognise the significant impact of all experiences of sexual misconduct and violence and/or relationship abuse, and acknowledge the potential detriment to studies, regardless of when the experience occurred.
  - 3.2.2. We strive to maintain equality and diversity within our community and will work to sustain an equal and safe environment in which a culture of prevention will be promoted through appropriate and consistently applied education and training.
  - 3.2.3. We will actively respond to all reports of sexual misconduct and violence and/or relationship abuse and we will respect the right of the individual to choose how to take forward a disclosure. Whilst recognising that some experiences may constitute a criminal offence, we will ensure that all reports are carefully and thoughtfully addressed by relevant staff members through a transparent process that is clearly communicated to the individuals involved.
  - 3.2.4. We believe that no person should suffer the effects of sexual misconduct and violence and/or relationship abuse alone, and will provide, facilitate access or signpost to dedicated specialist support, including the University wellbeing team, and local and national support groups.
  - 3.2.5. We will work with local partners and key groups to forge positive relationships to support all our work in this area, from prevention to enquiry and post-incident care.

### 4. Definitions relating to behaviour

- 4.1. **Sexual misconduct and violence** is defined as any unwanted conduct of a sexual nature which occurred in person or by letter, telephone, text, email or other electronic and/or social media. It may include but is not limited to the following behaviours:
- 4.1.1. Engaging, or attempting to engage in a sexual act with another individual without consent;
  - 4.1.2. Sexually touching another person without their consent;
  - 4.1.3. 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;
  - 4.1.4. Inappropriately showing sexual organs to another person;
  - 4.1.5. Repeatedly following another person without good reason;
  - 4.1.6. Recording and/or sharing intimate images or recordings of another person without their consent; and
  - 4.1.7. Arranging or participating in events which may reasonably be assumed to cause degradation and humiliation to those who have experienced sexual violence, for example inappropriately themed social events or initiations.

- 4.2. **Relationship abuse** and coercive or controlling behaviour is defined as any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those who are, or have been, intimate partners or family members regardless of gender, sex or sexuality. This can include, but is not limited to, psychological, physical, sexual, financial and/or emotional abuse.
- 4.3. **Complicity** is any act that knowingly helps, promotes, or encourages any form of sexual misconduct and violence by another individual.
- 4.4. **Retaliation** may constitute any words or actions, including intimidation, threats, or coercion, made in response to disclosures or reports made under the sexual misconduct and violence Policy, by any individual including both the responding party and the reporting party, as well as witnesses, friends, or relatives.
- 4.5. The University recognises that there are potentially additional types of behaviour that will constitute a breach of this policy, and which will therefore need to be considered under the relevant student disciplinary regulations, although the frequency and likelihood of such breaches are likely to be low:
  - 4.5.1. **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 student regulations and procedures as they relate to this policy.
  - 4.5.2. **Malicious reporting** occurs when an individual shares an allegation of sexual misconduct and violence or relationship abuse that the individual knows to lack a basis in fact.

## 5. Terminology used in the procedure

- 5.1. **Disclosure** involves an individual choosing to tell anyone who is part of the University community about their experience of sexual misconduct and violence or relationship abuse (different from Report).
- 5.2. **Report** is the sharing of information with the University regarding an incident of sexual misconduct and violence or relationship abuse experienced by the student for the purposes of initiating the investigation process by the University, as set out in this policy and the accompanying student regulations and procedures (different from disclosure).
- 5.3. **Reporting party** is the person(s) who has been the subject of the alleged incident of sexual misconduct and violence, relationship abuse or other policy breach.
- 5.4. **Responding party** is the person(s) whose behaviour it is alleged amounted to an incident of sexual misconduct and violence, relationship abuse or other policy breach.
- 5.5. **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 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.
  - 5.5.1. **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 an unwilling participant submits due to coercion, force, threat, intimidation or the exploitation of power. Coercion is when someone is pressured unreasonably for sex, which can include manipulation. 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.
  - 5.5.2. **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, semi-conscious, 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.

Intoxication (for example due to drugs or alcohol use) is never a defence for committing an act of sexual misconduct and violence, or for failing to obtain consent. If there is any doubt as to the level or extent of one's own or the other individual's incapacitation, the safest approach is not to engage in a sexual act.

Under this policy, "No" always means "No," but "Yes" may not always mean "Yes." Anything but a clear, knowing and voluntary consent to any sexual activity is equivalent to a "No" at any point during a sexual encounter.

## 6. Confidentiality

- 6.1. The University will respect the sensitivity of disclosures of sexual misconduct and/or relationship abuse and their consequences, and treat any disclosure confidentially, in line with our Data Protection Policy and the University's duty of care under safeguarding. Information will usually only be shared with relevant individuals/entities (who may be internal or external to the University, e.g. Registry staff, Student Services (Wellbeing) team, witnesses, external experts from specialist agencies like Rape Crisis, sexual Assault Referral Centres or the Police with the agreement of the Reporting Party.
- 6.2. The University reserves the right, and may be under an obligation, to share information in exceptional circumstances where such disclosure is necessary to protect any individual or the wider University community from harm or to prevent a crime from taking place.
- 6.3. All individuals involved in any process under this policy must keep information that is disclosed to them as part of the process confidential. Any unauthorised disclosure of confidential information will be considered a data breach and a confidentiality breach and will be addressed accordingly. Throughout all proceedings, the University will act in compliance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

POLICY SIGN-OFF AND OWNERSHIP DETAILS	
Document name:	Sexual Misconduct and Violence Policy
Version Number:	V2
Equality Impact Assessment:	September 2023 (original) Reviewed May 2025
Privacy Impact Assessment:	29/05/25
Approved by:	UTLC
Date Approved:	28/05/25
Date for Review:	28/05/27
Consulted with (Departments / Area of Service / Job Title):	University Secretary
Author:	Director of Registry and Academic Development
Owner (if different from above):	Director of Registry and Academic Development
Document Location:	<a href="#">Sexual-Misconduct-and-Violence-Policy.pdf</a>

<b>Compliance Checks:</b>	Casework data monitored by UTLC/ UEDIEC annually. Feedback from those affected.
<b>Related Policies/Procedures:</b>	Regulations for Taught Students Regulations for PGR Students

<b>REVISION HISTORY</b>			
<b>Version</b>	<b>Date</b>	<b>Revision description/Summary of changes</b>	<b>Author</b>
V1.0	23/05/2023	Initial version	Director of Registry
V1.1	22/11/2023	Update to clarify:  1. inclusion of relationship abuse in scope of policy  2. range of support services available  3. scope as applied to reporting and responding party	Director of Registry
V2	22/05/25	Update in conjunction with University Secretary in response to UK Supreme Court's ruling which clarified that in the Equality Act 2010, "sex" refers to biological sex as recorded at birth, not gender identity.	Director of Registry and Academic Development