## Sexual Misconduct, Violence and Harassment Policy and Disclosure Procedure

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Sexual Misconduct, Violence and Harassment Policy and Disclosure Procedure

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2. Policy Statement

2.1 The University of Hull takes seriously all reports of sexual misconduct, violence and harassment, in all its forms.

We acknowledge that any individual, regardless of economic status or, protected characteristic (age, sex, sexual orientation, race or ethnicity, religion and belief, disability, gender reassignment, civil partnership and marriage, pregnancy and maternity), can experience sexual violence, abuse and harassment. We are committed to providing a safe and inclusive environment where all members of our campus community can study, work and live and are treated with respect.

Sexual misconduct, violence and harassment refers to a broad spectrum of behaviours including, but not limited to;

- Any unwanted sexual act or activity where consent is not, or cannot be given (including but not restricted to rape, sexual assault or, any act entered into through coercion)
- Intimidation and unwelcome words, conduct, or behaviour of a sexual nature both in person and online
- Stalking (unwanted, repeated, obsessive and/or controlling behaviours that make someone distressed or scared)
- Domestic abuse (including; physical, emotional and financial abuse, and coercive control)
- Misuse/abuse of power
- Sexually touching another person without their consent
- Inappropriately showing of sexual organs to another person
- Kissing another person without their consent
- Recording and/or sharing intimate images or recordings of another person without their consent

We recognise these behaviours can and do happen in Higher Education Institutions and that experiencing any of these can have an impact upon an individual’s physical and mental health and negatively affect their studies and employment. We believe no person should suffer the effects of this alone.

We will actively listen and take seriously each disclosure/report and the immediate priority will be the safety, health and wellbeing of the disclosing/reporting party.

Any involved parties will be treated impartially, fairly and with dignity. We will provide clear and consistent advice on sources of support and reporting options. The wishes of the reporting party will be central to the University’s decision on how to initially proceed.

The University of Hull will ensure an effective prevention strategy is in place.
Scope

2.2 This Policy applies to all registered students of the University including, students who have suspended their studies and students who have completed their studies but are yet to graduate from the University, and all members of University staff including, honorary staff.

2.3 This Policy relates to all incidents of Sexual Misconduct, Violence and Harassment, as well as domestic abuse and coercive or controlling behaviour, complicity and retaliation as defined in Section 3.

2.4 This Policy relates to all incidents of Sexual Misconduct, Violence and Harassment which have occurred between students, between staff, between students and staff (this includes both students to staff and staff to students), between Cambridge Education Group students (undertaking study on campus) and a student/staff member as the responding party, and in limited circumstances between members of the public and a student/staff member as the responding party, such circumstances may include but is not limited to; offences relating to minors, on-line conduct, behaviours towards a member of the public (including visitors to the University campus) which may present a safeguarding concern to any member of the University Community. To clarify, reporting students may also make disclosures whereby the responding party is a member of the public.

2.5 The University jurisdiction under this policy is not limited to its own premises, nor to behaviour which occurs in the UK. As such, this policy covers behaviour both on and off campus wherever it may occur and any on-line, electronic and/or image based conduct.

2.6 The related documents to this Policy, relate specifically to those experiences which have occurred during the course of study or work at the University, in which the Responding Party is a current student or member of staff of the University.

2.7 Reports of Sexual Misconduct, Violence and Harassment will be considered by the University under its internal disciplinary regulations. When the Responding Party is a student the Student Disciplinary Regulations and/or the Regulations Governing the Investigation and Determination of Concerns relating to Fitness to Practise will apply. When the Responding Party is a member of staff the University Disciplinary Policy and Procedure for staff will apply. To clarify, where a Responding Party is undertaking a professional programme, any informal resolutions usually available under relevant regulations may not be appropriate, this will be decided by the Faculty and/or Student Misconduct Officer.

2.8 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 on criminal guilt. Further that any internal investigation will be focused exclusively on whether a breach of this Policy and/or relevant code of conduct has occurred. The internal process cannot therefore be regarded as a substitute for a Police investigation or criminal prosecution.

2.9 Some incidents of Sexual Misconduct, Violence and Harassment may also constitute a criminal offence. Such incidents may be addressed through criminal proceedings, internal disciplinary proceedings or, in some cases both. Although internal disciplinary proceedings may be placed on hold pending the outcome of criminal proceedings. However where proportionate to do so, the University may take precautionary action as deemed necessary and in accordance with the relevant internal disciplinary procedure, pending the outcome of any criminal proceedings and/or internal disciplinary proceedings.

2.10 There may be occasions where a student or, staff member is subject to criminal proceedings which do not relate to alleged offences against a member of the University Community. However, such alleged offences may have a bearing on the Student’s/Staff Member’s participation in the University and/or raises safeguarding concerns for any other member(s) of the University Community such as; downloading incident images of children, grooming, child abuse, sexual violence against a non-student. In these instances, where proportionate to do so, the University may commence internal disciplinary proceedings and may take precautionary action as deemed necessary and in accordance with the
relevant internal disciplinary procedure, pending the outcome of any criminal proceedings and/or internal disciplinary proceedings

2.11 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 internal disciplinary procedures and does not mean the Reporting Party has made a vexatious or malicious report.

2.12 Third Party Disclosures, where the person disclosing has not experienced the sexual misconduct, violence and harassment, will be recorded for trend monitoring purposes. The University will where possible respect the right of the individual who experienced the sexual misconduct, violence and harassment to choose how to take forward a disclosure rather than rely on a third party to make this choice for them. The University retains the right to investigate a third party disclosure should it feel that is an appropriate measure or it may decide to take no action.

2.13 Whilst this Policy and Disclosure Procedure is not applicable to our Collaborative Partners, the University expects that all its Collaborative Partners shall have their own policies and procedures in place to manage reports and disclosures of sexual misconduct, violence and harassment.

3. Definitions and Terminology

3.1 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.

Types of Behaviour

3.2 Sexual Misconduct, Violence and Harassment is defined as any unwanted conduct of a sexual nature which occurred in person or by any other means including but not limited to; social media, telephone, text, email, letter and includes:

- Any unwanted sexual act or activity where consent is not, or cannot be given (including but not restricted to rape, sexual assault or, any act entered into through coercion)
- Intimidation and unwelcome words, conduct, or behaviour of a sexual nature both in person and online
- Stalking (unwanted, repeated, obsessive and/or controlling behaviours that make someone distressed or scared)
- Repeatedly following another person without good reason
- Domestic abuse (including; physical, emotional and financial abuse and coercive control)
- Misuse/abuse of power
- Sexually touching another person without their consent
- Inappropriately showing of sexual organs to another person
- Kissing another person without their consent
- Recording and/or sharing intimate images or recordings of another person without their consent
- 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
3.3 **Domestic Abuse** 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 or sexuality. This can include, but is not limited to, psychological, physical, sexual, financial and/or emotional abuse.

3.4 **Controlling Behaviour** is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

3.5 **Coercive behaviour** is a continuing act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

3.6 **Complicity** is any act that knowingly helps, promotes, or encourages any form of Sexual Misconduct, Violence and Harassment by another individual.

3.7 **Retaliation** may constitute any words or actions, including intimidation, threats, or coercion, made in response to disclosures or reports made under this policy, by any individual including; the Responding Party, Reporting Party, witnesses, friends or relatives.

**Terminology**

3.8 **Disclosure** involves an individual choosing to tell the University about their experience of Sexual Misconduct, Violence and Harassment (different from a Report)

3.9 **Report** is the sharing of information with the University regarding an incident of Sexual Misconduct, Violence and Harassment experienced by that individual for the purposes of initiating the investigation process by the University (different from a Disclosure)

3.10 **Reporting Party** is the person(s) who has been the subject of the alleged incident or Sexual Misconduct, Violence and Harassment

3.11 **Responding Party** is the person(s) whose behaviour it is alleged amounted to an incident of Sexual Misconduct, Violence and Harassment or other policy breach

3.12 **Principles of Natural Justice** are, in essence, broad principles of fairness which anyone who decides anything must follow. In short, a fair hearing must be provided and the process must be impartial and free from bias. The Responding Party must therefore be told clearly the allegations against them, in advance; they must be given the opportunity to put forward their own case; the decision taking panel/person must be unbiased and procedures must be followed consistently in all cases. Justice should both be done and be seen to have been done.

3.13 **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.

3.14 **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.

3.15 **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.

3.16 **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.

3.17 **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 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.

3.18 **Precautionary Action** is a measure implemented pending the outcome of a criminal and/or University investigation, as a neutral act in order to protect members of the University Community, protect others, or ensure that evidence related to the case is not prejudiced. The decision to take precautionary is not an indicator of any pre-determination.

3.19 **Member of the University Community** is the University, its staff, students, visitors, partners and any other organisation operating within the boundary of the University Campus.

3.20 **Graduation** is the date of the meeting of the exam board at which the award was decided/confirmed.

4. **Key Principles**

4.1 All staff will have been informed of this Policy and will be trained as appropriate to their roles.

4.2 The University will ensure an effective prevention strategy is in place, such strategy shall be formed by legislative changes, best practice in the sector, efficient monitoring and reporting, identifying trends/root causes, through partnership working across internal departments, the Hull University Student Union (HUSU) and with external agencies and regularly reviewing training needs of both staff and students.

4.3 The University is committed to providing support for those members of its community affected by the issues outlined in this policy. The University will provide information on support resources available and offer interim measures as appropriate to the Reporting Party, Responding Party, and witnesses involved in alleged incidents of Sexual Misconduct, Violence and Harassment and any subsequent internal disciplinary proceedings.

4.4 Under this policy all students and staff members who have experienced Sexual Misconduct, Violence and Harassment will have equality of access to both internal and external specialist support (e.g. Sexual Assault Referral Centre and Rape Crisis), regardless of when the experiences occurred and regardless of their choice to make a Report to the University or Police. Support remains available irrespective of the outcome of any investigation.

4.5 The University will work with, the HUSU, 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.

4.6 In addressing experiences and working with both internal and external experts, we will seek to learn from experience, enabling the University to both shape and respond to national and international policy and practice, and to provide regular assurance to Council, Senate, the University Leadership Team and the wider University community, that specific incidents and broader cultural issues are appropriately captured and addressed.

4.7 The University recognises that the Reporting Party may require time and reflection before making a
decision on how to proceed following an incident and/or the making of a disclosure. As such, the University will not impose any time limits on when a Reporting Party may make a report to the University. However, it should be noted that, generally speaking University investigations are only carried out in respect of current registered students and staff members. However, in exceptional circumstances the University may consider commencing an investigation against a former student providing the report is made within 3 months of the responding party graduating. Although it should be noted that the University would be unable to compel the former student to engage in that investigation and possible outcomes in the event the allegations are proven would be limited to exclusion from campus and future study. Further, there can be limitations with the more time that passes for example; accuracy and availability of recall, availability of evidence and accessibility of witnesses.

4.8 All investigations into allegations of Sexual Misconduct, Violence and Harassment shall be carried out thoroughly, in accordance with the relevant internal disciplinary procedures and in accordance with the principles of natural justice. Final determinations will be made on the balance of probabilities.

4.9 There may be certain circumstances where the University is required to take appropriate action to prevent potential harm to individuals or the University, based on a risk assessment, which may include acting on information despite or without knowledge of the wishes of the individual(s).

5. **Confidentiality**

5.1 Where possible, confidentiality will be maintained throughout the Disclosure processes, in recognition of the sensitive nature of Sexual Misconduct, Violence and Harassment matters. As such, information will usually only be shared with relevant individuals/entities (who may be internal or external to the University, e.g. the University Mental Health & Wellbeing Team, external experts from specialist agencies like Rape Crisis, Sexual Assault Referral Centres or the Police with the agreement of the Reporting Party).

5.2 Where an investigation into an allegation of Sexual Misconduct, Violence and Harassment is being carried out, it may be necessary to share information with others on a need to know basis, such as; potential witnesses and other staff members involved in the investigation process and/or responsible for making the final determination on the matter and/or hearing of any subsequent appeal. To clarify, where an investigation is carried out, the reporting party shall be notified of the outcome.

5.3 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 Policy violation 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.

5.4 The University reserves the right, and may be under an obligation, to share information in 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. Anyone disclosing will be kept informed if it is felt action needs to be taken.

6. **Equality and Diversity**

6.1 Sexual Misconduct, Violence and Harassment can be experienced by any individual, regardless of economic status or protected characteristic (age, sex, sexual orientation, race or ethnicity, religion and
7. Responsibilities

7.1 All students and staff shall abide by the relevant codes of conduct and shall not engage in any conduct which might constitute Sexual Misconduct, Violence or Harassment.

7.2 All students accepting an offer to study with the University shall complete the mandatory consent e-induction module prior to enrollment, the only exception to this shall be those students with legitimate reasons for opting out of the module.

7.3 Disclosures and reports raised under this Policy must be done so in good faith.

7.4 The Director of Student Services is responsible for the application of the ‘Procedure for disclosures from students’ referred to within this Policy.

7.5 The Executive HR Director is responsible for the application of the ‘Procedure for disclosures from staff’ referred to within this Policy.

7.6 The day to day management of reports made under this Policy where the Responding Party is a student will be overseen by Academic Registry, specifically the student conduct and complaints office. The key staff contact is the Student Misconduct Officer and Academic Registrar.

7.7 The day to day management of reports made under this Policy where the Responding Party is a student undertaking a professional programme (with the exception of HYMS students), will be overseen by the relevant Head of Faculty.

7.8 The day to day management of reports made under this Policy where the Responding Party is a member of staff will be overseen by Human Resources. The key staff contact is the Executive HR Director.

7.9 The Director of Student Services will ensure that the University Leadership Team, Audit Committee, Senate and Council are regularly provided with anonymised data concerning disclosures received from students.

7.10 The Executive Director of HR will ensure that the University Leadership Team, Audit Committee, Senate and Council are regularly provided with anonymised data concerning disclosures received from staff and reports against staff.

7.11 The Academic Registrar will ensure that, the University Leadership Team, Audit Committee, Senate and Council are regularly provided with anonymised data concerning reports against students and any updates and/or changes to the University’s approach to sexual misconduct, violence and harassment for consideration and action as appropriate.

7.12 Any role, function and/or responsibility given to the Academic Registrar, Executive Director of HR, Director of Student Services and/or Student Misconduct Officer may be delegated to another suitable member of staff as they deem appropriate.

8. Procedure for Disclosures from Students

8.1 This procedure is designed to support the Reporting Party to disclose incidents of Sexual Misconduct,
Violence and Harassment to the University, and to support the Reporting Party when they choose and assess the course of action that is most appropriate for them.

8.2 Students (with the exception of HYMS students) are encouraged to make a disclosure by submitting a ‘Report a Concern Form’ (this is particularly encouraged if the disclosure relates to a member of staff) or, if they feel more comfortable students can make a disclosure to any student facing member of University staff.

8.3 HYMS Students are encouraged to make a disclosure directly to the HYMS Support Services by contacting student.support@hyms.ac.uk (this is particularly encouraged if the disclosure relates to a member of staff) or, if they feel more comfortable students can make a disclosure to any student facing member of HYMS staff. To clarify, this is irrespective of whether the Responding Party is a HYMS or University of Hull student/staff member.

8.4 Staff outside of the University Mental Health & Wellbeing Team receiving a Disclosure should submit a ‘Report a concern form’. They may, if the Reporting Party requests, omit the name of the Responding Party. To clarify, where a disclosure is received from a Hull registered HYMS student, HYMS shall notify the Mental Health & Wellbeing Team.

8.5 The process below will be initiated following receipt by the University Mental Health and Wellbeing Team of a Disclosure of an incident of Sexual Misconduct, Violence and Harassment or policy breach. The Disclosure may be received in a variety of ways and may not necessarily be brought forward by the Reporting Party.

8.6 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 to the University being made under this Policy. The University respects the right of the Reporting Party to choose how to take forward a Disclosure, although additional consideration may be given where there are safeguarding concerns (see 8.11).

8.7 Following a Disclosure, the Reporting Party will be contacted by a member of the Mental Health & Wellbeing Team who will:

- Signpost the Reporting Party to a Sexual Assault Referral Centre if appropriate and any other specialist external agencies as required
- Provide the Reporting Party with their reporting options along with information on resources for specialist support. The University recognises that the Reporting Party may require time and reflection before making a decision. The Reporting Party will be given the option and support to do one or more of the following:
  - Report to the Police
  - Report to the University for consideration under the relevant University Disciplinary Regulations
  - Make no report of the incident; and/or
  - Receive advice on the support that is available
- Signpost the Reporting Party to the Students’ Union Advice Service to access free, impartial and confidential advice.

8.8 The Reporting Party may have a member of staff from the University Mental Health & Wellbeing Team assigned to them to offer welfare and pastoral support (this support will be separate from any support provided to the Responding party; one member of staff will not provide support to both parties). Any academic support needs will also be considered and any actions required will be identified to ensure those needs are met.

8.9 If the reporting party making a disclosure relating to the conduct of a student, states they wish for a report to be made to the University for consideration under the relevant University Disciplinary
Regulations, the member of staff receiving the disclosure must submit a Student Misconduct Report Form.

8.10 If the reporting party making a disclosure relating to the conduct of a staff member, states they wish for a report to be made to the University for consideration under the relevant University Disciplinary Regulations, the member of staff receiving the disclosure must notify the Executive HR Director.

8.11 There may be occasions whereby the nature of a disclosure relating to the conduct of a staff member raises safeguarding concerns for members of the University Community. Where such a disclosure is received and the reporting party chooses not to make a report or is undecided, an investigation may proceed at the discretion of the Executive HR Director.

8.12 The Mental Health & Wellbeing Team will maintain a record of disclosures to effectively engage in prevention and response initiatives.

Anonymous Reporting from Students

8.13 The University recognises that students may prefer to make the University aware of an incident of Sexual Misconduct, Violence and Harassment anonymously. As such, a student can also make an anonymous report via the ‘Report a Concern’ form. It should, however, be noted that only limited information may be submitted as part of an anonymous report and the report can only be used for monitoring purposes. The University will be unable to take any action in respect of the report.

8.14 Staff outside of the University Mental Health & Wellbeing Team receiving a Disclosure where the Reporting Party wishes to remain anonymous should either direct the student to make an anonymous report via the ‘Report a Concern Form’, or make the anonymous report on their behalf. It should be made clear to the student that anonymous reports will be used for monitoring purposes only. Staff can also seek support and advice regarding the anonymous report from the Mental Health & Wellbeing Team if needed.

8.15 The anonymous reporting option requires the student to select an option as to why they chose to report the incident anonymously. These responses will be considered as part of the University Prevention Strategy to remove barriers to reporting.

9. Procedure for Disclosures from Staff

9.1 Staff are encouraged to make disclosures to a line manager and/or their personal supervisor.

9.2 If a member of staff receives a disclosure from a Reporting Party, the process below will be initiated. The disclosure may be received in a variety of ways and may not necessarily be brought forward by the Reporting Party.

9.3 A disclosure does not automatically result in a report to the University being made. The University respects the right of the Reporting Party to choose how to take forward a disclosure but may have a duty to investigate should it consider this to be an appropriate measure.

9.4 The Reporting Party will be signposted to a Sexual Assault Referral Centre if appropriate and any other specialist external agencies as required

9.5 The Reporting Party will be signposted to a staff counselling service via local independent counselling organisation.

9.6 Following a disclosure, the Reporting Party will be given their reporting options along with information on resources for specialist support. The University recognises that the Reporting Party may require time and reflection before making a decision. The Reporting Party will be given the option and support to do one or more of the following:
- Report to the Police
- Report to the University for consideration under the relevant University Disciplinary Regulations
- Make no report of the incident; and/or
- Receive advice on the support that is available

9.7 If the reporting party making a disclosure relating to the conduct of a student, states they wish for a report to be made to the University for consideration under the relevant University Disciplinary Regulations, the member of staff receiving the disclosure must submit a Student Misconduct Report Form.

9.8 If the reporting party making a disclosure relating to the conduct of a staff member, states they wish for a report to be made to the University for consideration under the relevant University Disciplinary Regulations, the member of staff receiving the disclosure must notify the Executive HR Director.

9.9 The University will maintain a record of disclosures to effectively engage in prevention and response initiatives. The Executive HR Director and other appropriate HR staff will have access to records of disclosures, including anonymous disclosures against staff members.

9.10 There may be occasions whereby the nature of a disclosure relating to the conduct of a staff member raises safeguarding concerns for members of the University Community. Where such a disclosure is received and the reporting party chooses not to make a report or is undecided, an investigation may proceed at the discretion of the Executive HR Director.

10. Links to Related Documents and Forms

Documents and Forms applicable to Students:
- Accommodation Misconduct Procedure
- Accommodation Rules
- Bullying and Harassment Policy and Procedure
- Code of Student Conduct
- Consent E-Learning Module
- Policy on the Risk Assessment of Applicants and Continuing Students Disclosing Criminal Convictions
- Regulations Governing the Investigation and Determination of Concerns about Fitness to Practise
- Report a Concern Form
- Report a Concern (HYMS)
- Safeguarding Policy
- Student Disciplinary Regulations

Documents and Forms applicable to Staff
- Bullying and Harassment Policy and Procedure
- Disciplinary Policy and Procedure
Domestic Abuse Policy
Personal Relations Code of Conduct
Resolution of Grievances Policy and Procedure
Report a Concern Form
Student Misconduct Report Form

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