

Procedure for Handling Allegations of Sexual Misconduct (“Procedure”) ¹

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1. Introduction and definition

- 1.1. Sexual misconduct is a disciplinary offence under paragraph 2(j) of Regulation XVII (Conduct and Discipline of Students) (<http://documents.manchester.ac.uk/display.aspx?DocID=6530>) (the “Regulation”).
- 1.2. For the purposes of this Procedure, the University views sexual misconduct as sexual violence and harassment, which can include a range of unwanted physical and non-physical sexual behaviours affecting members of the University community. Sexual misconduct can be perpetrated by anyone. Non-consensual sexual activity which may amount to a prosecutable criminal offence is included in this definition. Appendix One of this Procedure provides a non-exhaustive list of what the University may view as sexual misconduct.

2. General principles

- 2.1. The University does not act as the police or a court of law. The University’s disciplinary processes are designed to act in response to the types of misconduct outlined under section 2 of the Regulation. Taking disciplinary action is at the sole discretion of the University.
- 2.2. The investigative ability of the University is not the same as the police or courts e.g. forensic analysis and medical examinations are not available to the University.
- 2.3. The Regulation requires the University to reach conclusions on the ‘balance of probabilities’ and not the criminal standard of ‘beyond reasonable doubt’.
- 2.4. The University can only take the actions available to it under the Regulation and associated procedures; where misconduct has occurred, the University can only impose the penalties it has available and which it considers proportionate. Paragraph 1.2 of the Regulation advises that the University’s student disciplinary processes apply to students registered or studying at the University, including if on a period of leave. The Regulation does not apply to the conduct of former students (except in instances of academic malpractice or research misconduct) or staff.
- 2.5. The University’s disciplinary processes are conducted on a confidential, need-to-know basis.
- 2.6. A Reporting Student’s disclosure or complaint will normally be considered as evidence should disciplinary action be taken and the Reporting Student may be asked to co-operate with requests for information and assistance.

¹ Any reference under this Procedure to a named person shall also be read as a reference to their delegated nominee.

- 2.7. The University is mindful of the sensitive nature of processes which involve the consideration of allegations of sexual misconduct and will take steps to ensure that all affected students are supported. If a disciplinary hearing takes place, the Reporting Student may be asked to attend or participate in the hearing as a witness. The University will, where possible, make appropriate adjustments to the University's processes to support affected students (for example, by ensuring that any direct contact during a hearing is limited where possible).
- 2.8. The University's ability to disclose details relating to the outcome of another student's disciplinary hearing is limited as a result of the duties owed to that student. Therefore, whilst the Reporting Student may be informed of any finding reached against the Reported Student, the University is unlikely to be able to provide further information in connection with the disciplinary process.

3. Initial disclosure

- 3.1. A student may make a disclosure via various channels to the University of alleged sexual misconduct at any point during their studies. The allegation may relate to any member of the University, both staff and students. This Procedure outlines some common routes of disclosure:
 - 3.1.1. A Reporting Student may come through the University's Report and Support platform (<https://www.reportandsupport.manchester.ac.uk/>). If the report relates to sexual misconduct, then the report will usually be routed directly through to the University's Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, to make initial contact with the student.
 - 3.1.2. A Reporting Student may make a disclosure of sexual misconduct via an informal or formal written complaint under Regulation XVIII (Student Complaints Procedure) (<http://documents.manchester.ac.uk/display.aspx?DocID=1893>). Complaints relating to dignity at work and study can be considered through Regulation XVIII, but Regulation XVIII is not designed for considering allegations of sexual misconduct. In keeping with paragraphs 7 and 15 of Regulation XVIII, allegations of sexual misconduct should be referred on to the Advice and Response Manager (Safeguarding, gender-based violence, and hate) for consideration under this Procedure.
 - 3.1.3. If a Reporting Student makes a disclosure in person to a member of staff, then the Staff Guidance (<http://documents.manchester.ac.uk/display.aspx?DocID=44216>) should be consulted. It is important to provide the Reporting Student with a safe space and to appropriately signpost to support. Staff should complete the Referral Form (available under the Staff Guidance).
- 3.2. If an individual connected to a Reporting Student makes a disclosure, then they should be advised to encourage the Reporting Student to make a disclosure directly through one of the routes above.

4. Acting on the disclosure

- 4.1. Following the initial disclosure, the Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, will offer to meet with the Reporting Student, in order to;
 - 4.1.1. Determine what the Reporting Student wishes to happen as a result of the disclosure.
 - 4.1.2. Manage the Reporting Student's expectations about University policy and processes.
 - 4.1.3. Ensure the Reporting Student has access to appropriate support.
 - 4.1.4. Gather key information about the allegation for risk assessment purposes.

- 4.2. Where the Reporting Student confirms that there is an ongoing police process, the Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, will liaise with the police in order to effectively risk assess and take any precautionary measures, as appropriate. The University will not normally take disciplinary action outside of this procedure until the conclusion of the police process as per the Procedure for Student Criminal Offences (<http://documents.manchester.ac.uk/DocuInfo.aspx?DocID=39974>). Where a report to the police has not been made, the University will not normally make a report to the police against the Reporting Student's wishes.
- 4.3. Following their meeting with the Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, if the Reporting Student wishes for the allegation to be considered further under this Procedure, they will be asked to submit a formal written statement and any necessary supporting information. The Reporting Student will normally have a period of 10 working days to submit their formal statement.
- 4.4. Where the Reporting Student does not wish to pursue the allegations any further under this Procedure, or any other applicable process, the University will undertake a risk assessment to determine what further action (if any) is appropriate. In exceptional circumstances, the risk assessment may identify the need to take further action under this Procedure (for example, on the basis of risks to the wider university community), notwithstanding the wishes of the Reporting Student. The University will ensure that the Reporting Student continues to be fully supported by the University in these circumstances.
- 4.5. Following receipt of the Reporting Student's formal statement, the Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, may make preliminary enquiries with the Reported Student's academic School to gather information that may help contextualise the allegation and inform the next stages of the process.
- 4.6. The Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, will notify the Reported Student that allegations have been made against them. The Reported Student will receive a copy of the allegations and be invited to attend a meeting with the Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, in order to respond. The Reported Student will be given reasonable notice of any meeting and can be accompanied to it by a supporter in keeping with paragraph 3.13 of the Regulation. The Reported Student can submit a written statement and any supporting material prior to the meeting. The Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, will normally arrange to have another staff member present to help advise the student on support and next steps, unless a reasonable objection is made to the staff member's involvement. A record of the meeting will be made.
- 4.7. After collection of the necessary information, the Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, should refer the case to the Head of Campus Life to consider whether any further investigation, and/or disciplinary action, is required under the Procedure for Summary Disciplinary Panels (<http://documents.manchester.ac.uk/DocuInfo.aspx?DocID=42773>) or the Procedure for the University Disciplinary Panel (<http://documents.manchester.ac.uk/DocuInfo.aspx?DocID=42774>). For students on professionally accredited programmes, then a case will be referred through the student's Health and Conduct Committee (or equivalent) procedures within their academic School, rather than to the Head of Campus Life.
- 4.8. Where further information is considered necessary before the Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, can decide whether a referral is necessary, then the case will be kept under review until such a decision can be made. Both the Reporting Student and Reported Student are expected to keep the Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, updated as may be necessary.

- 4.9. The Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, may make recommendations to either student with a view to keeping them separated whilst a case is under consideration, such as:
- 4.9.1. Temporary adjustments to the students' learning environments if both students are on the same programme e.g. attending different seminars, taking assessments apart etc;
 - 4.9.2. Temporary relocation of, or an offer to permanently transfer, either student from University accommodation;
 - 4.9.3. For there to be no direct or indirect contact between the parties.
- 4.10. If formal precautionary measures may be required at any stage of this Procedure, such as suspension of the Reported Student, then the case can be referred to the Head of Campus Life for consideration under the Procedure for Suspending a Student (<http://documents.manchester.ac.uk/DocuInfo.aspx?DocID=42771>). If a student is on a professional programme within the Faculty of Biology, Medicine and Health, and may require suspension, then the Procedure for a Committee on Student Fitness to Practise (<http://documents.manchester.ac.uk/display.aspx?DocID=23997>) should be followed.
- 4.11. The Advice and Harassment Response Manager (Safeguarding, gender-based violence, and hate), or delegate, will correspond with the Reporting Student and Reported Student at appropriate junctures of this Procedure, usually after meetings and when a decision has been made to, or to not, refer a case on for further consideration through the University's disciplinary processes.

5. Non- student-on-student allegations

- 5.1. The above processes will be followed in relation to student-on-student allegations. However, allegations may also involve staff and third parties, whether as the person making the allegation or the person subject to the allegation.
- 5.2. Where a Reporting Student makes an allegation against a member of staff, the disclosure by the Reporting Student can still be made to the Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate. However, the consideration of the allegation will follow staff disciplinary procedures rather than be actioned through the Regulation.
- 5.3. Where a member of staff makes a disclosure about a Reported Student, the Advice and Response Manager (Safeguarding, gender-based violence, and hate), or delegate, would not usually take the disclosure from the member of staff, but could thereafter be involved in helping to liaise with the Reported Student and deciding whether any further investigation and/or disciplinary action is required under the Regulation. In such circumstances, it is envisaged that the process outlined under section 4 of this and under associated procedures will be replicated insofar as possible.
- 5.4. A disclosure about a Reported Student could come from an individual outside the University. Individuals external to the University have no automatic right of complaint to the University and so allegations of sexual misconduct will be dealt with at the discretion of the University. The University will, however, look to treat such complaints seriously and will adopt the principles outlined in this Procedure and associated procedures, where considered reasonably necessary and practicable.
- 5.5. If a Reporting Student makes a disclosure about an individual who is not another student or a member of staff, then the University will be limited to providing the Reporting Student with support.

6. Post-allegation of sexual misconduct

- 6.1. The University has a duty of care to both the Reporting and Reported Student and, after any disciplinary proceedings or investigations have concluded, the University will continue to provide support to both students for as long as they want and need it. The University may however be limited in this regard depending on the outcome to the disciplinary process e.g. a student being expelled may limit the support that the University can provide or signpost to.
- 6.2. In recognition of the effect that sexual misconduct cases will likely have on the individuals involved, measures may need to be set to minimise future contact between parties.
- 6.3. The Sexual Violence and Harassment Response Manager will liaise with Schools about how to manage any ongoing matters on a case by case basis.

7. Document control

Document control box	
Policy / Procedure title:	Procedure for Handling Allegations of Sexual Misconduct
Date approved:	November 2021
Approving body:	Student Conduct and Discipline Committee
Version:	2
Supersedes:	N/A
Previous review dates:	N/A
Next review date:	Summer 2022
Related Statutes, Ordinances, General Regulations:	<ul style="list-style-type: none"> Statute XXI (Conduct, discipline and academic progress of students) Regulation XVII (Conduct and Discipline of Students) Regulation XVIII (Student Complaints Procedure)
Equality relevance outcome:	High / Medium (delete as applicable)
Related policies/procedures/guidance:	<ul style="list-style-type: none"> Procedure for Student Criminal Offences Procedure for Suspending a Student Procedure for Summary Disciplinary Action Procedure for the University Disciplinary Panel Dignity at Work and Study Policy
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Amendment history

Version	Date	Reason for change
2	November 2021	Including scope for delegates of the A&R Manager to act on disclosures and conduct investigations as needed.

Appendix One

Types of sexual misconduct

1. Contact Offences

- 1.1 Sexual intercourse or engaging in sexual acts without consent² (sexual acts are defined as including, but not limited to, cunnilingus, fellatio and masturbation).
- 1.2 Attempting to engage in sexual intercourse or a sexual act without consent.
- 1.3 Kissing without consent
- 1.4 Touching inappropriately, in what may reasonably be perceived to be a sexual manner, without consent (e.g. touching a person's clothes, hair or body; standing too close to a person; rubbing or brushing up against them).

2. Non-contact offences

- 2.1 Sharing or creating private sexual materials (i.e. those made of an individual with the understanding that such material would not be shared) such as videos and photographs in physical spaces.
- 2.2 Sharing or creating public sexual materials (i.e. those pornographic materials that are widely available via media outlets) in physical spaces with the intention to sexually harass and/or incite gender-based violence.
- 2.3 Inappropriately showing sexual organs to another person, or inappropriately allowing sexual organs to be seen, in a physical space.
- 2.4 Repeated unwanted and unsolicited contact of a sexual nature with another person in person or by telephone
- 2.5 Making unwanted remarks that may reasonably be perceived to be of a sexual nature (e.g. asking personal questions about sexual matters; making sexual comments about a person's body; telling sexual jokes or stories; making sexual comments or innuendo).
- 2.6 Making unwarranted and unsolicited sex-based noises to another person (e.g. catcalling, wolf-whistling, sexual grunting or moaning).
- 2.7 Active complicity in any of the above contact or non-contact offences (n.b. active complicity implies active promotion of the offence and does not cover inaction or failing to prevent an offence).

3. Online or digital offences

- 3.1 Sharing or creating private sexual materials (i.e. those made of an individual with the understanding that such material would not be shared) online or in digital spaces.
- 3.2 Sharing or creating public sexual materials (i.e. those pornographic materials that are widely available via media outlets) online or in digital spaces with the intention to sexually harass and/or incite gender-based violence.
- 3.3 Inappropriately showing sexual organs to another person, or inappropriately allowing sexual organs to be seen, online or in digital spaces.
- 3.4 Repeated unwanted and unsolicited contact of a sexual nature with another person by email, text message, social media or in any online or digital space (n.b. "repeated contact" in an online space constitutes repeated unsolicited contact in one digital platform or multiple unwanted contacts in numerous digital platforms).
- 3.5 Storing or viewing inappropriate material on University IT equipment, as covered by the University IT Services Regulations.
- 3.6 Active complicity in any of the above online or digital offences (n.b. active complicity implies active promotion of the offence and does not cover inaction or failing to prevent an offence).

² The University adopts the legal definition of sexual consent: a person consents if s/he agrees by choice, and has the freedom and capacity to make that choice.