

Harassment and Sexual Misconduct Policy and Procedure

Our policy and procedure relating to staff on student sexual misconduct.

This document contains information about harassment and sexual misconduct, which may be distressing for some individuals.

The content includes descriptions of inappropriate sexual behaviour, reporting procedures, and support resources. Please proceed with this in mind. Please remember you can access free support to help you manage your wellbeing and welfare. For more information visit the [Wellbeing and Welfare webpages](#).

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1 - Purpose

1.1 This policy aims to create a clear and fair process to prevent, report, and address harassment and misconduct against students by staff, contractors and volunteers.

1.2 The University is firmly committed to fostering a safe, respectful, and inclusive environment by actively condemning and swiftly addressing all forms of harassment and misconduct.

1.3 We recognise that anyone within the University community can be affected by these issues but that individuals with certain protected characteristics are more at risk of being impacted.

1.4 The University will prioritise supporting anyone affected by these issues.

1.5 This Policy seeks to provide individuals with clarity and assurance regarding the University's response, outlining procedures for handling reports and available support mechanisms.

2 - Scope

2.1 Harassment and misconduct can affect anyone, irrespective of sex, gender, sexual orientation, status, age, ability, faith, ethnicity, nationality, or economic status. Everyone deserves to study, work and live in a safe environment.

2.2 Any allegations of harassment or sexual misconduct made by a student against a member of staff, contractor or volunteer, will be dealt with in accordance with this Policy. Any allegation made by a staff member against another staff member will be dealt with under the Dignity at Work Policy and Procedure, which is available on the staff intranet.

2.3 The procedures set out within this document refer to how an allegation against a staff member will be addressed. Where the allegation is reported against a contractor or volunteer the same process will be followed, as far as possible. Any variation required in practice, will be explained to both parties.

2.4 All reports will be taken seriously, and appropriate action will follow based on the evidence available..

2.5 This Policy should be reviewed in conjunction with existing staff policies and procedures, including, but not limited to; Disciplinary Policy and Procedure; Code of Conduct; Code of Practice on Freedom of Speech and Academic Freedom; Equality and Human Rights Policy; Dignity at Work Policy; and the Intimate and Close Personal Relationships Policy.

2.6 It covers incidents during an individual's period of study or work at the University, including those occurring off-campus, outside of official teaching/working hours, or electronically.

2.7 In cases where harassment and sexual misconduct intersects with other forms of discrimination, this Policy applies.

2.8 Where students are also staff members and are the responding party, then the Head of HR along with the Disciplinary Officer (Head of Governance and Compliance) will decide whether this staff procedure or the student procedure will be followed depending on the circumstances of the allegation and the most appropriate way of managing the investigation whilst ensuring appropriate safeguarding and risk management. The rationale for the decision will be documented.

2.9 If either party makes a complaint about this process, the Head of HR will decide if the complaint should be addressed immediately, paused until these proceedings are over, or reviewed as a separate matter. They will consult with relevant staff before deciding.

2.10 In cases involving the Disciplinary Officer, the University Secretary/ Head of HR will assess the complaint and provide guidance on subsequent actions. In cases involving the Head of HR, the Director of HR will assess the complaint.

2.11 If further allegations or counter allegations come to light during this process, the HROD consultant, Casework and the Disciplinary Officer will liaise regarding these. The Disciplinary Officer or HROD Consultant (as appropriate) will determine if they are included as part of the current case or if another case will handle the allegations. Individuals will be informed accordingly.

2.12 Where a member of staff resigns during the course of a University investigation or during provisional action, the investigation may proceed where it is possible for findings to be reached on the balance of probabilities. The individual will still be invited to partake in all stages of this process. Should they choose not to, these findings can note the absence of evidence from the member of staff, but their absence should not preclude a finding being made.

2.13 The University expects all members of the University community to treat others at the University with dignity and respect. The University reserves the right to suspend investigation of a disciplinary matter if there is a breach of expected standards, including where those investigating a case are subject to harassment, physical or verbal abuse. In these circumstances the individual will be notified of the suspension and the reasons for it. If a student or staff member is judged to be in breach of University expectations of behaviour, they might be subject to disciplinary procedures.

3 - Definitions

3.1 For definitions used in this policy please see our [Definitions webpage](#).

4 - General principles

4.1 The University upholds principles of dignity and respect for all members of our university community, ensuring protection from harassment and misconduct without exception.

4.2 The University believes that the professional relationship of trust and confidence that exists between students and staff is a central and essential part of a student's educational development and pastoral care. Those who work for, or represent, the University must not abuse their position in any way. The University has a separate [Intimate and Close Personal Relationships at Work Policy \(Staff Intranet\)](#). All staff are expected to comply with this policy, and this policy is also available on the intranet.

4.3 The University does not use Non-Disclosure Agreements in matters relating to harassment and/or sexual misconduct.

4.4 The reporting party may be a third party who has witnessed or who is aware of harassment and sexual misconduct towards a student. In such cases the level of investigation may be more limited if the student does not wish to participate.

4.5 There is no time limit for reporting incidents, although delayed reporting may make investigations more difficult. It may not be possible to apply aspects of this policy if the responding party has left the University.

4.6 Anonymous reports are considered on a case-by-case basis, although anonymity may hinder investigations. Reporting students, even if they report anonymously are able to access support through [Report and Support](#).

4.7 Any investigation will be undertaken by an investigator who is trained in trauma informed approaches to handling reports.

4.8 Reports will be investigated to determine whether, on the balance of probability, the evidence presented means there is a case to answer.

4.9 Where an individual has declared a disability, appropriate reasonable adjustments will be made to the investigation process and disciplinary process. These will be determined by the needs of the individual parties.

4.10 The University abides by the principles of natural justice. This means that if a disciplinary allegation is made, the University will ensure that the Responding Party:

- a. Is made fully aware of the nature of the report(s) made against them.
- b. Has an opportunity to reply to any report(s).
- c. Has a fair and unbiased hearing at which all relevant circumstances are taken into account.
- d. Has the right to appeal against a disciplinary finding or sanction.

4.11 University investigations focus solely on potential breaches of University Policy, which are distinct from criminal determinations.

4.12 All staff involved in investigating allegations will maintain impartiality and discretion while offering support to all parties.

4.14 An annual report is submitted to the People Committee for monitoring purposes.

5 - Support and advice

For students

5.1 The University understands that unacceptable behaviour can significantly impact mental health, self-esteem, sense of belonging and academic outcomes. For details of the support and advice for students please see our [Dignity and Respect page](#).

Support and Advice for students during these proceedings

5.2 Reporting students can bring a supporter to any meetings held under this process. This could be a staff member, a current registered student or Students' Union

representative. Supporters provide moral support; they cannot speak on behalf of students or interpret their responses. The student will be asked to provide the name and capacity in which the supporter is attending in advance.

5.3 Disabled students may also be able to be accompanied by a relevant disability practitioner, if requested.

5.4 Consideration may be given to requests from a reporting student to be accompanied by an alternative supporter. Any such requests should be made to the Head of HR, providing at least 3 working days' notice, and include details of the individual who is requested to attend, the specific reasons for their attendance being requested and if applicable why the support cannot be provided by a supporter listed in 5.2.

5.5 All students will be signposted to wellbeing and welfare support services throughout these proceedings. In certain cases, the HROD Consultant may request these teams to contact students directly.

5.6 Specialist sexual violence support is available to reporting students, if requested, and where available.

For staff

5.7 The staff member will be allowed to be accompanied during the investigation and at any disciplinary hearing. A companion can be a work colleague or Trade Union representative. The companion is allowed to sum up the individual's case, respond on behalf of the employee to any views expressed during the meeting and confer with the employee during the meeting, and take written notes. The companion will not, however, have the right to speak on the employee's behalf or address the investigating officer/chair of a panel or speak on the employee's behalf in a way that hinders or prevents the employer from explaining their case.

5.8 A member of staff may also have a supporter who doesn't act as a companion during any investigation process or subsequent disciplinary hearing but can provide the emotional and practical support needed for the member of staff outside of these meetings.

5.9 Employee Assistance Programme Care First

Care First can provide support to a staff member when they are the responding party, responding to an allegation of misconduct from a student.

6 - Reporting inappropriate behaviour

6.1 Information on reporting inappropriate behaviour can be found on our [Reporting inappropriate behaviour page](#).

7 - Risk assessment

7.1 Upon receiving a report of an incident regarding a member of staff, the relevant Head of School, Associate Head, Head of Service or line manager(s), along with a representative from HROD will review the responding party's work or academic programme area in discussion with the relevant department/programme to assess what arrangements need to be put in place. This will include the arrangements in place for students, (counselling sessions and academic adjustments) and consideration of any measures that need to be put in place to protect the investigation and/or the reporting party, as well as the responding party.

7.2 The assessment will consider the potential risks to all members of the University community but in particular to the reporting party, the responding party and any witnesses.

7.3 The assessment will be recorded on the Risk Assessment form, available on [our policy webpage](#). The risk assessment must be kept updated and should be reviewed if circumstances regarding the case change.

8 - Suspension

8.1 When an allegation of harassment or sexual misconduct is reported, suspension of the member of staff may be appropriate for one or more of the following reasons:

- To allow for the investigation to take place, where this might be inhibited by the presence of the individual.
- If the employee is subject to potential criminal investigation and/or proceedings which may affect their job.
- Where the presence of the member of staff on site is unacceptable to others and/or may increase the likelihood of further misconduct during the course of the disciplinary investigation.
- Where it is deemed to be in the employee's or the University's best interest to be removed from the workplace.

8.2 Suspension is not a disciplinary penalty and should not be viewed as such. Suspension is undertaken without influence or prejudice regarding the investigation.

8.3 The procedure to be followed for suspension, is contained within the staff Disciplinary Policy and Procedure, which is available on the staff intranet. Where a decision is made to suspend an employee, this should be recorded on the Risk Assessment form, [available on our policy page](#).

9 - Investigation

9.1 The Head of HR will appoint an Investigating Officer, who is trained in trauma informed investigations and will use trauma informed approaches and be independent of the reporting and responding party.

9.2 Investigating Officers will be either a Head of School, Associate Head, Member of the Senior Leadership Team or Head of Service. The Investigating Officer will determine the scope of the investigation, and this will depend on the complexity of the case.

9.3 An HROD Consultant will support the case.

9.4 The Investigating Officer will normally have an initial meeting with the reporting party to talk about the options available to them (more than one option can be taken):

- a) the University will formally investigate the incident. Informal resolution of allegations of this nature are not normally appropriate and will not normally be recommended.
- b) the incident will be reported to the Police, if not already done so (see Appendix 1).
- c) No further action will be taken. If this option is taken the reporting party will be given a clear rationale.

9.5 Where it is decided to proceed to a formal investigation, the role of the Investigating Officer will be to:

- a) Ensure that where practicable all relevant facts and witness statements are obtained in relation to the alleged misconduct.
- b) Assess the impact of the alleged misconduct on the reporting party considering the power imbalance.
- c) Ensure the terms of reference for the investigation reasonably reflect concerns and risks expressly or implicitly raised by the disclosure or complaint, including the breach of policy implicated.
- d) Decide which witnesses are necessary to interview and accordingly invite them to an investigatory interview. Witnesses may be accompanied by a supporter at the meeting, should they so wish. For staff this can be a work colleague or Trade Union representative. If the witness is a student, then they may be accompanied by another YSJ student, member of YSJ staff or a Students' Union representative.
- e) Conduct the investigation in a confidential manner and complete the investigation without undue delay wherever possible. Additional confidentiality over some aspects of the investigation may be imposed to preserve the integrity and fairness of the investigation.
- f) Carry out a proportionate investigation which may include interviewing staff and/or students. The Investigating officer will try to minimise the number of interviews or

communications with each witness (including the reporting party) in order to minimise the impact on those involved, subject to seeking the most complete evidence available.

g) Provide a written report outlining the findings of the investigation.

9.6 The Investigating Officer will invite the responding staff member to an investigation meeting in order to discuss the case, review initial evidence, and provide them with the opportunity to respond to the report(/s).

9.7 The responding party will be provided with:

- a) Clear, specific information about the report(s), the incident(s) or behaviour being investigated, and the type of offence being considered.
- b) Reasonable notice of any disciplinary meetings to which they are invited.

9.8 Initial evidence will be made available to the responding party at the meeting with the Investigating Officer.

9.9 During the investigation meeting the procedure will be explained and the details of the allegation will be confirmed. The responding party will be given a fair opportunity to explain or present their version of events in response to the allegation.

9.10 A clear timeline will be given to both parties at the start of the investigation process, recognising that time limits may need to be amended depending on the circumstances of the case. Throughout the investigation both parties will be kept informed of progress/and or delays and the reasons for this.

9.11 The Investigating Officer will collect further evidence from relevant parties, for example witnesses within the University community (and on a case-by-case basis witnesses external to the University community), and make any further enquiries that they deem necessary for the investigation. The purpose of an investigation is to seek out, identify and collate evidence. The evidence available will depend on the allegation and may include, for example, CCTV or social media posts in addition to witness evidence and the testimony of the parties.

9.12 All parties including witnesses will be offered support including advice and guidance on policy and procedure. They will also be signposted to other external support that is available.

9.13 The reporting party is able to bring a supporter to investigation meetings. The responding party as the staff member can be accompanied by a work colleague or Trade Union representative.

9.14 Investigatory meetings are not audio recorded but will be minuted. The summary notes of the meeting will be shared with the parties present. Audio recording by any party without the consent of those involved is not permitted. If meetings are recorded without the consent of others, this may amount to a disciplinary offence. Any recording will not be permitted to be used as evidence.

9.15 If the responding party does not take up the opportunity to speak to the Investigating Officer, the disciplinary process will still proceed. It is strongly recommended that the responding party engages with the Investigating Officer and any disciplinary hearing.

10 - Investigation outcome

10.1 The Investigating Officer will produce a report summarising the investigation undertaken, facts established, conclusion(s) reached and recommendations for future action, if any.

10.2 The Investigating Officer will recommend to the Head of HR whether to:

- Dismiss the allegations due to insufficient evidence.
- Refer the case for a full Disciplinary Hearing (see Section 11).

10.3 A decision will then be made by the Head of HR on how to proceed based on the recommendations of the Investigating Officer. Both parties will be informed of this decision in writing.

10.4 If, following the investigation, a decision is taken to dismiss the allegations, the Investigating Officer will meet with the reporting student to explain the reasoning and to discuss next steps.

11 - Disciplinary Hearing

11.1 Any Disciplinary Hearing will be held in accordance with the staff Disciplinary Policy and Procedure, which is available on the staff intranet.

11.2 In addition, hearings taking place which involve complaints of harassment or sexual misconduct, will also include the following trauma-informed approaches to protect the wellbeing of all parties:

- a) Panels will include at least one member whom has been trauma informed trained.
- b) The Panel will consider and respect the rights of both Parties in determining appropriate procedural adjustments.
- c) Panel members will be impartial. The names and titles of panel members will be provided in advance to both parties, giving adequate time to raise potential conflicts of interest. Accordingly, the constitution of the panel or the decision maker may need to be changed prior to the hearing.
- d) It is the responsibility of the panel Chair to ensure that the questioning does not involve bullying of witnesses or disclosing identifies of any anonymous evidence, and to prevent any party bringing witnesses or evidence that is not relevant to the investigation.
- e) At the disciplinary hearing, the reporting party should not be required to be in the same room or be questioned by the responding staff member or their trade union representative.
- f) Other panel members should also submit questions via the Chair who will decide if they are appropriate.
- g) If the reporting party is asked to give evidence at the disciplinary hearing, then care must be taken to ensure that the student feels safe. The reporting party might be

asked if they would prefer to attend remotely or provide evidence in writing to the Disciplinary panel rather than attend in person.

12 - Disciplinary sanctions

12.1 The University's staff Disciplinary Policy sets out the sanctions which can be applied by the panel where any allegation is found proven. In summary the sanctions that would be considered are:

12.2 Informal warning

The panel may decide that the misconduct, although proven does not warrant a formal sanction. An informal warning is not usually appropriate when an allegation of harassment and/or sexual misconduct is proven.

12.3 Written warning

This level of warning would normally be used if conduct does not meet acceptable standards, or for repeated minor offences, where the misconduct fails to improve through the informal procedure.

12.4 Final written warning

This level of warning would be issued in the following circumstances:

- If the misconduct is sufficiently serious to warrant a final written warning but insufficiently serious to justify dismissal; or
- Where the misconduct would usually be serious enough to warrant dismissal but mitigating circumstances are taken into account; or
- If conduct fails to improve following a previous written warning issued in the last 12 months; or
- Where sustained improvement in conduct is not evidence after a written warning.

12.5 Dismissal

Dismissal can occur in one of two ways: 1) where there have been a series of breaches in conduct which have been considered at disciplinary hearings and for which the

employee has received formal warning/s; 2) where the disciplinary panel concludes that the employee's conduct amounts to gross misconduct, i.e. a fundamental breach of trust and confidence which results in a breach of contract, in such cases the staff member may be summarily dismissed.

12.6 Where the responding party is not an employee of the University, issuing one of the above sanctions may not be appropriate. In such cases, consideration will be given to ceasing the University's relationship with the individual.

13 - Outcome

13.1 All relevant parties will receive the outcome and clear rationale for the decision and sanction in writing, usually **within 5 working days**. Any delays will be explained.

13.2 The responding party will normally be informed in person of the outcome, rationale for the decision and any sanction(s) prior to the written confirmation being sent. The responding party will be informed that they may appeal on specified grounds set out below.

13.3 The reporting party will have the opportunity, if they wish, to meet with the Chair privately to hear the panel's decision and an explanation of the rationale for it. There is no right of appeal provided under this process for the reporting party.

13.4 The reporting student will be informed that they have an opportunity to apply for a review by the Office of the Independent Adjudicator for Higher Education (OIA), should they be dissatisfied with the outcome of the University's internal process once this has fully concluded. (See Section 16, Completion of procedures).

14 - Appeal

14.1 The responding party will have the right to appeal against any sanction imposed.

14.2 The appeal hearing is not a rehearing of the case; it is a review of the disciplinary sanction imposed, and process followed.

14.3 An appeal may be made on one or a number of the following grounds:

- A serious procedural error that resulted in significant detriment to the responding party.
- New evidence that has only come to light after the disciplinary hearing.
- The decision reached at the disciplinary hearing was unfair and unreasonable in the circumstances having due regard to the severity of the allegations and any mitigating circumstances.

14.4 The Appeal Hearing will be conducted in line with the staff Disciplinary Policy and Procedure, which is available on the staff intranet.

14.5 The reporting party will be provided with a copy of the appeal in advance of the appeal being considered by the panel and be given the opportunity to submit a written statement to the Appeal Panel but would not attend the actual appeal hearing.

Informing the reporting party

14.6 Following any appeal, the reporting party will be told whether their report has been upheld or not, and information of the outcome as appropriate.

14.7 If the report is not upheld, appropriate information will be shared with the Reporting Party to minimise any adverse effects in accessing their work or study environment. However, there may be limits to the information about the consequences to the reported party that can be shared with the reporting party.

14.8 The University will consider everyone's right to privacy carefully.

15 - Confidentiality

15.1 The University handles all reports with sensitivity and confidentiality in line with its Data Protection Policy and Safeguarding responsibilities.

15.2 Confidentiality ensures:

- The integrity of investigations
- Protection of individual privacy
- Encouragement of reporting without fear of exposure or retribution

15.3 Information is typically shared only with individuals or organisations directly involved in managing the case, such as: Investigating Officer, Panel members, HROD, the line manager of the staff member, Student Services for support (including Wellbeing, Welfare, Disability support services); witnesses providing relevant information; external agencies like Sexual Assault Referral Centres, for specialist support and advice; the police, if necessary, for legal or safety reasons.

15.4 All personal data will be handled in compliance with GDPR to ensure the privacy and rights of the individuals involved. Documentation related to the investigation will be sent securely and only if there is a lawful basis for processing the data, ensuring transparency and confidentiality. Information that could identify individuals or sensitive details may be redacted to maintain confidentiality and comply with data protection regulations.

15.5 In exceptional circumstances (for example, to prevent harm or future crimes) the University may share information more widely. This will only happen in line with legal and ethical standards.

15.6 All parties are required to maintain confidentiality. Breaches of confidentiality may result in disciplinary action. The University complies with GDPR and the Data Protection Act (2018) throughout all procedures.

16 - Completion of the University Disciplinary Procedure

Student

16.1 If a reporting student is dissatisfied with the outcome of the University's disciplinary proceedings they can request a 'Completion of Procedures Letter' from the Student Casework team (casework@yorks.ac.uk). The student will have the opportunity to apply

for a review by the Office of the Independent Adjudicator for Higher Education (OIA). The OIA is an independent body which was established by the Higher Education Act 2004 to consider student complaints which have not been resolved through an institution's internal procedures. The deadline for an appeal to the OIA is **12 months** from the date of the Completion of Procedures letter. This service is free to students. For further details, [visit the OIA website](#).

Staff

16.2 The completion of the disciplinary process ends when the outcome of any disciplinary appeal has been given in writing.

Appendix 1: Involvement of police and criminal courts

It is normally the Reporting Party's decision whether or not to report a crime to the police, although the following exceptions apply:

- a) In some circumstances, it is a legal requirement for the University to report incidents to the police, for example under the Acts of Parliament relating to the protection of children or safeguarding of other vulnerable persons.
- b) Circumstances may arise when failure to report a matter to the police may be against the public interest or the interest of the University community, for example, when significant violence has been used which may subsequently put the reporting party or others at risk. In such a case, the Head of HR and University Secretary will make the decision whether the matter should be reported to the police, taking into account any potential harm to the reporting party from unauthorised disclosure, including further distress to the individual and loss of trust in the University.

Once the Reporting Party has made a decision about the next step then, save in the exceptional circumstances listed above, the University should seek to act in accordance with the reporting party's wishes.

Where a reporting party does not report or retracts a statement in relation to an alleged serious offence to the police, the disciplinary procedures may still be invoked.

The University disciplinary procedures are not a substitute for the criminal justice system; the University cannot decide whether a crime has been committed. It can only decide whether, on the evidence available to it, a breach of the University's policies and procedures, including the staff Code of Conduct, is more likely than not to have taken place.

The University may seek and maintain informal liaison with the police. Advice may be sought on whether a matter is considered by the police to be serious or not serious and whether there are compelling grounds for reporting a matter formally where the reporting party is opposed to such action. A serious offence is one that is likely to attract an immediate custodial sentence if proved in a criminal court or one that can be tried as a criminal offence only at the Crown Court.

Where a criminal conviction has been made against a member of staff, the University will not re-investigate the matter. The finding would be made by the University that the individual has engaged in misconduct by committing a criminal offence.

An internal investigation into a harassment complaint by a student against a member of staff is focused exclusively on whether a breach of this policy has occurred. Decisions will be made on the balance of probability, and as such, the threshold for upholding a report is distinct from any criminal investigation (which requires proof beyond all reasonable doubt).

The internal process could also be considering different issues from a Police investigation or criminal prosecution. Where a criminal investigation is underway and it is inappropriate to investigate the alleged behaviour (to avoid interfering in the police investigation), the University reserves the right to instigate separate proceedings where should, for example, there be a risk to the University's reputation or the employee is unable to carry out their duties as a result of the police investigation.

If, as a result of due judicial process, the responding party is unable to attend meetings relating to the University investigation and/or a hearing, the investigation, and where applicable, the hearing, will be conducted in their absence. They will be informed of the date of the hearing and are entitled to send a representative, if they wish.

Associated Policy Links

[Intimate and Close Personal Relationships at Work Policy](#)

[Disciplinary Policy and Procedure](#) (available on the staff intranet)

[Dignity at Work Policy and Procedure](#) (available on the staff intranet)

Version control statement

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