

Sexual Harassment and Sexual Misconduct Policy and Procedure

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**YORK
ST JOHN
UNIVERSITY**

Student on Student Sexual Misconduct

This document contains information about sexual 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 warning. Please remember you can access free support to help you manage your wellbeing and welfare. For more information visit the Wellbeing and Welfare webpage - [Wellbeing and Welfare | York St John University \(yorks.ac.uk\)](https://www.yorks.ac.uk/wellbeing-and-welfare)

1 Purpose

- 1.1 This Policy aims to create a clear and fair process to prevent, report, and address sexual harassment and misconduct.
- 1.2 The University is committed to condemning and promptly addressing sexual harassment and misconduct, creating a safe environment for all community members.
- 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. We prioritise a comprehensive response to anyone affected by these issues.
- 1.4 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 Sexual harassment and misconduct can affect anyone, irrespective of sex, gender, orientation, status, age, ability, faith, ethnicity, nationality, or economic status. Everyone deserves to work and live in a safe environment.
- 2.2 This Policy applies to all University community members, including staff, visitors, contractors, and students enrolled on modules, programmes or courses delivered in whole by the University, or in whole or part by a franchise partner institution (franchise provision). Matters relating to students on programmes delivered by a Validated Partner should follow their disciplinary procedures.
- 2.3 Every reported case will be thoroughly investigated and addressed to promote safety for all.
- 2.4 This Policy should be reviewed in conjunction with existing staff and student policies, regulations, codes of conduct, and procedures, including, but not limited to; the Student Dignity and Respect Policy; Student Disciplinary Policy and Procedure; Misconduct in Accommodation Policy; Code of Practice on Freedom of Speech and Academic Freedom; Student Charter; Dignity and Respect at Work; Staff Grievance; Personal Relationships Policy etc.
- 2.5 It covers incidents during an individual's period of work or study at the University, including those occurring off-campus, outside of official working/teaching hours, or electronically.
- 2.6 In cases where sexual harassment and sexual misconduct intersects with other forms of discrimination, this Policy applies.
- 2.7 Action taken under this Policy will take precedence over any action taken under all other University Policies and Regulations, including those of the YSJU Students' Union, and Accommodation.
- 2.8 If a complaint is made during disciplinary proceedings, the Disciplinary Officer and Complaints Officer will decide if the complaint should be addressed immediately, paused until the disciplinary proceedings are over, or reviewed after the disciplinary proceedings. They will consult with relevant staff before deciding.
- 2.9 In cases involving the Complaints Officer or Disciplinary Officer, the University Secretary and Registrar will assess the complaint and provide guidance on subsequent actions.
- 2.10 If further allegations or counter allegations come to light during the disciplinary process, the Investigating Officer will liaise with Casework and the Disciplinary Officer regarding these. The

Disciplinary Officer 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.

2.11 Behaviours addressed under the Students' Union policies may also fall under this Policy, and vice versa, as deemed appropriate.

2.12 Where a responding student withdraws during the course of a University investigation or during provisional action, or has a withdrawal enforced, the University investigation will cease as they are no longer a registered student. Should a reapplication be received, the University investigation will be re-opened.

2.13 The University expects all members of the University community to treat other students and staff 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 student 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

Sexual Misconduct

3.1 'Sexual misconduct' means any unwanted or attempted unwanted conduct of a sexual nature. Sexual misconduct can occur through any medium, including online.

3.2 Examples of sexual misconduct may include, but are not limited to:

- Sexual harassment (as defined by Section 26 (2) of the Equality Act 2010).
- Unwanted conduct which creates an intimidating, hostile, degrading, humiliating or offensive environment (as defined by the Equality Act 2010).
- Assault (as defined by the Sexual Offences Act 2003)
- Rape (as defined by the Sexual Offences Act 2003) v. Physical unwanted sexual advances (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017).
- Intimidation, or promising resources or benefits in return for sexual favours (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017).
- Distributing private and personal explicit images or video footage of an individual without their consent (as defined by the Criminal Justice and Courts Act 2015).
- Image-based sexual abuse: (also known as 'revenge pornography') recording or sharing sexual or intimate photos or videos, without the consent of the person pictured.
- Stalking: persistent, unwanted communication or behaviour intending to frighten, intimidate or harass someone such as repeatedly following them.
- Cyberstalking: repeated and deliberate use of the internet and other electronic communication tools to engage in persistent, unwanted communication intending to frighten, intimidate or harass someone, or to spy on someone.
- Upskirting and down-blousing: filming or photographing under a person's clothes without their consent to capture images of their body or underwear.
- Relationship abuse: any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those who are, or have been, intimate partners. This may include psychological, physical, sexual, financial and/or emotional abuse.
- Retaliation: any adverse actions against another person, including, but not limited to, harassment, threats, intimidation or coercion, made in response to someone disclosing or reporting any form of sexual misconduct.
- Showing sexual organs to another person(s) 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.
- Spiking: the act of surreptitiously adding a substance, usually a drug or alcohol, to someone's drink or food without their knowledge.

Sexual Harassment

3.3 Sexual harassment is not a criminal offence under English law, but behaviours aligning with it are addressed under 3.1 Sexual Misconduct. When touching is involved, such as unwanted physical advances or inappropriate touching, it may intersect with sexual offences in criminal law. Some forms might overlap with other crimes such as harassment, stalking, or revenge porn. The University follows the Equality Act (2010) (S26) considering sexual harassment as part of sexual misconduct under this Policy. Racialised sexual harassment, such as harassment that includes racial stereotypes or fetishisation, is also prohibited under this policy.

Consent

- 3.4 Section 74 of the [Sexual Offences Act \(2003\)](#) defines consent as 'if (s)he agrees by choice, and has the freedom and capacity to make that choice.'
- 3.5 Consent is the agreement to participate in a sexual act where the individual has both the freedom and capacity to make that decision. Consent cannot be assumed on the basis of a previous sexual experience or previously given consent, and consent may be withdrawn at any time.

Member(s) of the University

3.6 Current members of staff, members of the Board of Governors and registered students at the University (including postgraduate research students who may also be employed by the University as a member of staff).

Visitor

3.7 Any person present on University premises, including University accommodation.

Reporting Party

3.8 The individual who has made the allegation of alleged (or criminally proven) sexual misconduct and reports it to the university.

Responding Party

3.9 The individual alleged to have committed sexual misconduct (or has been found guilty of an offence of this nature in a court of law) by the Reporting Party.

Supporter

For Students

- 3.10 The supporter's role is to observe and provide moral support. They cannot ask questions, interpret responses, or speak on behalf of the student.
- 3.11 Where a 'supporter' is referenced in the procedures, that person should be a current member of staff, a current registered student at the University, or a Students' Union representative. Where disciplinary action is required within the first three months of the student's studies and supportive links may not have been established, alternative supporters may be possible. Approval should be sought from the University Disciplinary Officer or their delegate regarding this.
- 3.12 It is not normally expected that the student will have legal representation. However, students can request to be accompanied by a legal adviser. The University asserts that hearings are internal proceedings and while the attendance of a legal adviser is not prohibited, their

attendance must normally be to act as a supporter, and therefore, they must adhere to acting as the student's supporter.

- 3.13 If the student believes it is justified, in the circumstances, to have legal representation and wishes them to attend in their role as a legal adviser rather than supporter, the student should make these reasons known to the University Disciplinary Officer at least three working days in advance of the meeting or hearing. This should be done via the Casework email; (casework@yorks.ac.uk).
- 3.14 If the University Disciplinary Officer believes the student has established compelling grounds for exceptional circumstances for legal representation, it will be permitted.
- 3.15 These grounds may include:
- The seriousness of the allegation(s)
 - Complexities in the evidence likely to be presented
 - The capacity of the individual to understand the case against them
 - Likely procedural challenges
 - The need for fairness in the cross-examination of evidence
 - The need to avoid delay
- 3.16 Students with additional needs may also be able to be accompanied by a practitioner, if requested.

4 General Principles

- 4.1 The University upholds principles of dignity and respect for all members and visitors, ensuring protection from sexual harassment and misconduct without exception. The University does not subscribe to Non-Disclosure Agreements in matters relating to harassment and/or sexual misconduct.
- 4.2 Collaborating with the Students' Union and Trade Unions, the University emphasises zero tolerance for such behaviours through awareness raising campaigns and education throughout the academic year, including Healthy Relationship advice for Early Starters.
- 4.3 Consent training, including bystander training, is encouraged along with other initiatives such as promoting national campaigns, for example, Sexual Violence Awareness Week and 16 Days of Action, which promotes a preventive culture.
- 4.4 The University abides by the principles of natural justice. This means that if a disciplinary allegation is made, the University will ensure that:
- a) The responding party is made fully aware of the nature of the allegation(s) made against them.
 - b) The responding party has an opportunity to reply to any allegation(s).
 - c) The responding party has a fair and unbiased hearing at which all relevant circumstances are taken into account.
 - d) The responding party has the right to appeal against a disciplinary finding or penalty.

General principles for students

- 4.5 A straightforward reporting mechanism ([Report + Support](#)) is widely communicated to ensure accessibility for all.
- 4.6 There is no time limit for reporting incidents, although delayed reporting may pose challenges. When a disciplinary matter is raised regarding an incident that occurred prior to changes in university policies, the disciplinary matter will be dealt with under the policy in place at the time the report is made.
- 4.7 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 via Report + Support.
- 4.8 The standard of proof applied in disciplinary and fitness to practise matters, including allegations of sexual misconduct, is that of the balance of probabilities, that on the evidence put forward, it is more likely than not that something was or was not, the case.

- 4.9 University investigations focus solely on potential breaches of the Student Dignity and Respect Policy, distinct from criminal determinations.
- 4.10 All staff involved maintain impartiality and discretion while offering support to all parties.
- 4.11 Specialist sexual violence support is available to students, if requested.
- 4.12 Investigators and members of the Appeals and Conduct Committee will be trained in trauma informed approaches.
- 4.13 Incident records are anonymised and reviewed periodically for trends. Annual updates to the Academic Board and Board of Governors include statistics on reports and resolutions, ensuring transparency and accountability in addressing sexual harassment and misconduct.
- 4.14 Where a student is known to have a disability, the University will make reasonable adjustments to its procedure where necessary, to avoid substantial disadvantage. If you require an adjustment to the way in which we communicate with you due to disability or accessibility need please contact us by emailing casework@yorks.ac.uk.
- 4.15 The University aims to complete its procedures in a timely manner. It aims to complete the initial investigation and formal stage of the process **within 60 days** of the allegation being made and to hear any appeal **within 30 days** of the student making the appeal. If we cannot meet this timeframe, we will explain why.

5 Support and Advice

For students: University services

- 5.1 Support and advice are provided to students who report sexual harassment and sexual misconduct, regardless of whether the University considers the reported incident to meet the criteria for investigation. Support and advice are also provided even if the incident takes place outside of the university context.

Report + Support

- 5.2 The Report + Support platform provides signposting to local support services and resources for students who have experienced or witnessed sexual violence. [Report + Support - York St John University \(yorks.ac.uk\)](#)

Wellbeing and Welfare Support

- 5.3 Students can access free support to help them manage their wellbeing and welfare, including support to access external enhanced support services, for example the NHS, hate crime reporting centres, or local specialist services, including Sexual Assault Referral Centres. Students can self-refer for a meeting with a specialist practitioner or visit a drop-in session. More information on the service can be found here - [Wellbeing and Welfare | York St John University \(yorks.ac.uk\)](#) In the academic year 2024-25 some members of the Wellbeing and Welfare Support Team will be Sexual Violence Liaison Officer trained (SVLO) to support students who disclose sexual misconduct.
- 5.4 For students studying on the London campus, they are able to access these services remotely and can also email wellness.london@yorks.ac.uk to connect with a member of the Student Support and Guidance team on the London campus.
- 5.5 The service will also be able to advise on support services tailored for specific groups, such as LGBTQ+ students, international students, and students with disabilities.

Disability support and inclusion

- 5.6 For students with a disability, long term health condition, mental health condition or a specific learning difficulty (SpLD), additional support is available – more information can be found here - [Disability support | York St John University \(yorks.ac.uk\)](#).

International student support

- 5.7 A dedicated Global Campus Team are available to provide support and guidance to international students – more information can be found here - [International student support | York St John University \(yorksj.ac.uk\)](https://www.yorksj.ac.uk/international-student-support/)

Student Assistance Programme

- 5.8 The Student Assistance Programme offers support through a free 24 hour confidential helpline and digital resource – more information can be found here [Spectrum Life | York St John University \(yorksj.ac.uk\)](https://www.yorksj.ac.uk/spectrum-life/).

Academic Support

- 5.9 During disciplinary investigations related to sexual misconduct academic accommodations may be possible, such as deadline extensions, leaves of absence or changes to course schedules for reporting and responding parties and witnesses. Please talk to the Casework Team about this by emailing casework@yorksj.ac.uk.

Accommodation

- 5.10 The Accommodation Team may be able to provide information on emergency accommodation options for students who feel unsafe in their York St John or partner provider housing.

YSJ Students' Union

- 5.11 The Students' Union Presidents and Advice Service are also available for support and advice. They can be contacted at su.advice@yorksj.ac.uk or can be found in the SU building.

For students and staff in York: external services

The Sexual Assault Referral Centre (SARC)

- 5.12 The SARC provides a range of services, including forensic medical examination, to anyone in North Yorkshire aged 16 and over who has been raped or sexually assaulted. Bridge House is located in Bishopthorpe and the services are available whether or not the assault has been reported to the police.

Website: www.bridgehousesarc.org

Email: Bridgehouse.sarc@nhs.net

Telephone 0330 2230099 (24 hour helpline).

Survive

- 5.13 Survive is a charity based in York which provides support to survivors of rape, sexual assault or childhood sexual abuse. Survive is managed by a team of staff and volunteers who are trained in supporting people with experiences surrounding rape and sexual abuse. Survive offer a counselling service, one to one support sessions, support groups and a confidential helpline.

Website: <http://survive-northyorks.org.uk/>

Helpline: 01904 642830

Email: survive@survive-northyorks.org.uk

The Samaritans

- 5.14 The Samaritans provide a fully confidential listening service through their 24 hour helpline.

Phone: 116 123

Website: www.samaritans.org/

Independent Domestic Abuse Service (IDAS)

5.15 Independent Domestic Abuse Service (IDAS) are a specialist charity based in York who supports anyone who is a victim or survivor of domestic abuse. When you contact IDAS they will talk to you about your situation and agree what support you need. This can include anything from helping you through the criminal justice system, giving you information on benefits and housing, providing emotional support or referring you for counselling. IDAS offer a helpline and a web chat service.

Website: www.idas.org.uk

Phone: 03000 110 110

E-mail: info@idas.org.uk

For students and staff in London: external services

The Samaritans

5.16 The Samaritans provide a fully confidential listening service through their 24 hour helpline.

Phone: 116 123

Website: www.samaritans.org/

London Survivors Gateway

5.17 London Survivors Gateway offer access to specialist services in London that provide information, support and help to anyone (women, men and people of all genders) who have been affected by rape, sexual assault, sexual abuse or any form of sexual violence at anytime in their lives.

Website: www.survivorsgateway.london/service-map/

Telephone: 0808 801 0860

Website for women and girls only: - [Get help - Women and Girls Network \(wgn.org.uk\)](http://www.wgn.org.uk)

Telephone for women and girls only: - 0808 801 0660

Rape and sexual assault referral centres NEAR E14 2BA

5.18 Find rape and sexual assault referral centres. Website: [Rape and sexual assault referral centres near E14 2BA - NHS \(www.nhs.uk\)](http://www.nhs.uk)

NHS domestic violence support

5.19 Find NHS domestic violence support at Website: [The Upstairs Surgery - Domestic Violence \(upstairs-surgery.co.uk\)](http://www.upstairs-surgery.co.uk)

Rape Crisis London

5.20 Rape Crisis England & Wales is the feminist charity working to end sexual violence and abuse.

Website: [Rape Crisis England & Wales](http://www RapeCrisis.org.uk)

Telephone: 0808 500 2222.

6 Procedure

Disclosure and Reporting of an Incident

6.1 Reports are accepted on behalf of students who have alleged and/or experienced sexual harassment or sexual misconduct, or on behalf of witnesses, from third parties, for example third party reporting centres. Anyone can report sexual misconduct or seek support through these ways:

Students

Report + Support

- 6.2 Report + Support is available 24 hours a day, allowing for a time and place that feels safest to the individual, with clear information about their options and signposting to appropriate support services. The University monitors Report + Support during University working days between 09:00 and 17:00, Monday to Friday (only). It is not intended as an emergency response tool. For information on emergency and crisis support services, see [Need help now | York St John University \(yorksj.ac.uk\)](#)

Wellbeing and Welfare Support

- 6.3 Specialist support services provide mental health or emotional support. All members can talk through how to make a Report and what support is available, both immediately and in the longer term. In the academic year 2024-25 some members of the Wellbeing and Welfare Support Team will be Sexual Violence Liaison Officer trained (SVLO) to receive disclosures of sexual misconduct. Information about what wellbeing and welfare support is available can be found on their webpage; [Wellbeing and Welfare](#).

Single Point of Contact

- 6.4 A representative from North Yorkshire Police acts as a Single Point of Contact to take anonymous reports from individuals who have experienced sexual assault which are then fed into the police's intelligence system. You can speak to the Single Point of Contact here - [Book a welfare appointment](#).

YSJ Students' Union

- 6.5 Students' Union staff, including the Students' Union Presidents and Advice Service can talk through how to make a Report and what support is available. They can be contacted at su.advice@yorksj.ac.uk or can be found in the SU building.

Security Team

- 6.6 The Security Team can talk through how to make a Report and what support is available.

Tutor/Supervisor

- 6.7 Tutors and supervisors will be able to signpost to the reporting options and what support is available.

Further Reporting and Disclosure Obligations

- 6.8 Reporting parties are encouraged to consult the Report + Support website for guidance on reporting to the police, including details on the Sexual Assault Referral Centre (SARC) (York and London), police procedures, time limits for criminal cases, evidence preservation, and anonymous reporting through Crimestoppers.
- 6.9 Students on certain regulated courses, for example, but not limited to, those overseen by the Nursing and Midwifery Council (NMC) or the Health and Care Professions Council (HCPC); must disclose any criminal charges and pending charges, regardless of whether the offence relates to the University. Seeking advice on these matters promptly is the student's responsibility.
- 6.10 In some instances, the University will have a duty to inform the Local Authority Designated Officer (LADO) if the responding party works or volunteers with children.
- 6.11 Recognising the unique nature of each incident of alleged sexual misconduct, an individualised approach to handling reports will be adopted, with each report considered on a case-by-case basis.

Provisional action prior to disciplinary action for students

- 6.12 If students are subject to a criminal charge or to a police investigation, or if the University believes that their behaviour is likely to cause injury or harm to others, the University may take provisional action to limit their interaction with the University community, including suspension and exclusion. If students are in University accommodation, a room move may be actioned pending any investigation. This will be sanctioned by the Disciplinary Officer. Restrictions may also be put on their University IT access.
- 6.13 If you are suspended, it means you are prohibited from entering all university premises and from participating in all university activities. The University may make a specific exception, for example, allowing you to come on campus to take an examination. Due to the [University Regulations](#) on periods of study, if the duration of a police investigation or court case will take you beyond the permitted periods of study, you may be withdrawn from your studies. Should you make a re-application following the completion of any criminal case, you may be asked to share details on the outcome of the case. The University may also investigate if you are re-admitted to the University as per 2.12 above.
- 6.14 If you are excluded, your right to enter university premises is restricted. You may be excluded from specific university and Student Union activities.
- 6.15 The University may impose a requirement on all parties (including a student reporting a disciplinary concern) not to have contact with each other and with named others. If you breach this requirement, this is in itself misconduct.
- 6.16 The Disciplinary Officer decides whether provisional action should be taken. The responding student will normally be told that the Disciplinary Officer is considering this action before the decision is made and why and will have an opportunity to make representations before the decision is made. The University would normally give at least 24 hours' notice (Monday-Friday) of any meetings relating to provisional action, however, if the Disciplinary Officer believes that immediate action is justified based on the risk of injury or harm, this may be less. If the Disciplinary Officer believes that immediate action is justified based on the risk of injury or harm, the decision may be made with immediate effect. In this case, the responding student will not have the opportunity to make representations before the provisional action is applied. In either case, the responding student will be given details of the decision in writing once it is made, and they will be told how they can challenge the decision if they believe it is unfair. The University will make all reasonable attempts to minimise the harm to their studies and to their ability to access student services.
- 6.17 If there are known Wellbeing concerns, a Wellbeing Advisor may be in attendance at the meeting also or a referral to Wellbeing Services may be made during any stage of provisional action.
- 6.18 Any meetings held will not be audio recorded but will be minuted. They should not be recorded without the express consent of those involved. If the student does record any meetings without the consent of others, this may amount to a disciplinary offence. Any recording will not be permitted to be used as evidence.
- 6.19 Provisional action is **not** a penalty and is not a judgment of guilt – its aim is to protect members of the University community, or the property of the University, or the property of a member or members of the University community. It also protects you from allegations about further disciplinary concerns while the matter is being investigated.
- 6.20 The University's decision-making for any provisional action will be informed by an evidence-based risk-assessment. The University will give careful consideration to the implications of provisional action including consideration of the balance between the potential risk to others and the potential disadvantage to the student(s) in question, and where relevant the implication on the sponsorship of student visas.
- 6.21 The responding student can appeal the provisional action at any time when it is in force, by emailing casework@yorksj.ac.uk. The Vice Chancellor is responsible for deciding whether the decision should be varied or remain in force. This may be delegated to an appropriate nominee. The University aims to send the responding student a response **within five working days**.
- 6.22 Even if the responding student does not appeal, the University will automatically review any provisional action **after four weeks**. The review will be conducted by the Disciplinary Officer. The decision may then remain in force until the outcome of any criminal proceedings or

University investigations, at which point a decision will be made by the Disciplinary Officer about any further action under this policy.

- 6.23 Failure to comply with any action required following the outcome, could result in further disciplinary action. The Disciplinary Officer will be notified of any failings and will determine if further action should be taken.

Formal Disciplinary Process

Reports where the Responding Party is a student

Investigation

- 6.28 The Vice Chancellor delegates disciplinary functions related to sexual misconduct to the Head of Governance and Compliance, who acts as the Disciplinary Officer. The Disciplinary Officer may further delegate powers to appropriate staff members.
- 6.29 The Disciplinary Officer will decide if the allegation is to be investigated via this Policy or the Student Disciplinary Policy and Procedure. For students studying regulated courses, the Fitness to Practise Policy may apply. Regardless of which Policy is applied, investigations will be conducted by persons independent of the parties concerned.
- 6.30 All allegations relating to sexual harassment and sexual misconduct will be investigated as a Level Two investigation.
- 6.31 The Disciplinary Officer or nominee will appoint an 'Investigating Officer' who is trained in trauma informed investigations and not known to either reporting or responding party.
- 6.32 Associate Heads, Heads of School, members of the Senior Leadership Team and Heads of Service may be appointed as an Investigating Officer as well as the Student Casework Investigators.
- 6.33 The Investigating Officer will normally have an initial meeting with the reporting party at the earliest opportunity. Within this meeting, the reporting party has the following options available to them (more than one option can be taken):
- Request the University formally investigates the incident. Informal resolution of allegations of this nature is not normally appropriate and will not normally be recommended.
 - Report the incident to the Police, if not already done so.
 - Initiate support from internal or external agencies.
 - Take no further action at this time¹
- 6.34 The Investigating Officer will contact the responding party inviting them separately to discuss the case and review initial evidence, so they have the opportunity to respond to the allegation(/s).
- 6.35 The responding party will be provided with:
- Clear, specific information about the allegation, the incident(s) or behaviour being investigated, and the type of offence being considered;
 - Reasonable notice of any disciplinary meetings to which they are invited;
- 6.36 Initial evidence will be made available to the responding party at the meeting with the Investigating Officer.²
- 6.37 The Investigating Officer will collect further evidence from relevant parties e.g. witnesses within the University community (and on a case-by-case basis witnesses external to the

1 the University reserves the right to refer a matter to the Police. This would usually be discussed with the reporting party.

2 The methodology aligns with Principles on Effective Interviewing for Investigations and Information Gathering and Rachlew, A. et al.'s A Guide to the Professional Interview: A Research-Based Interview Methodology for People Who Ask Questions (2022, Anthem Press, London).

University Community), and make any further enquiries that they deem necessary for the investigation.

- 6.38 Both parties are welcome to bring a supporter (see 3.11) to investigatory meetings. Additionally, the reporting party will be provided 1:1 support from SVLO trained staff before and after investigatory meetings, upon request, where possible.
- 6.39 Investigatory meetings are not audio recorded but will be minuted. 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.
- 6.40 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 student engages with the Investigating Officer and the disciplinary hearing.
- 6.41 After the investigation, the Investigating Officer will write a report for the Disciplinary Officer.
- 6.42 This report will include recommendations to the Disciplinary Officer. On the basis of this report, the Disciplinary Officer may:
- a) Dismiss the allegations due to insufficient evidence
 - b) Refer the case for a full hearing by the Appeals and Conduct Committee.
- 6.43 This report will be given to the Responding Party unless they prefer it to be shared verbally or not at all.
- 6.44 In cases where allegations are dismissed or not upheld, an Investigating Officer will meet with the reporting party to communicate the Disciplinary Officer's decision. For cases where allegations are upheld, all Parties will be notified of the outcome. For cases that are not upheld the notification will explain the rationale for not upholding the allegations.
- 6.45 If either party thinks the finding at this stage of the process is disproportionate based on the evidence, they may appeal to the Vice Chancellor. The Vice Chancellor, or appropriate nominee, will review the case and may:
- a) Dismiss the case and allegations;
 - b) Refer the case back for further investigation – please note this may be with a different Investigating Officer;
 - c) Refer the case for hearing by the Appeals and Conduct Committee.

Hearing of the Appeals and Conduct Committee

- 6.46 If the case is referred for a hearing by the Appeals and Conduct Committee, this will be called. This Panel will be convened with administrative support provided by the Student Casework Team. All hearing panel members will be impartial and have had no prior involvement with either party. They will have received appropriate training to be Committee members. Where possible the University will seek to ensure the composition of the Panel reflects the diversity of the University community.
- 6.47 Both parties will be informed, in writing, that they are required to attend a Hearing of the Appeals and Conduct Committee. The hearing will always be coordinated so the responding party, witnesses and reporting party are not in attendance at the same time.
- 6.48 Hearings will usually be in person, but remote meetings can be held at the request of either party. Both parties will receive all relevant documents, including the Investigating Officer's report and evidence, at least one week (5 working days) before the hearing. Should either party wish to refer to any evidence this should be provided at least three working days before the hearing, by email to, casework@yorksj.ac.uk.
- 6.49 Both parties have the right to be accompanied by a supporter. Both parties will be required to tell the Casework Team who the supporter is at least three working days before the hearing, by email to, casework@yorksj.ac.uk. If the supporter's behaviour at the hearing is deemed inappropriate, the Chair has the right to remove the supporter or convene the hearing to be held at a later date. The reporting party may also request support from a Sexual Violence Liaison Officer (SVLO) instead of, or in addition to, their named supporter.
- 6.50 Both parties can invite witnesses to the hearing, these will usually be witnesses within the University community. Both parties will be required to tell the Casework Team who the

witnesses are at least three working days before the hearing, by email to, casework@yorks.ac.uk. If any of the witnesses are new to the case, i.e. they were not called as witnesses during the investigation, the hearing Chair will decide whether to admit them. Witnesses should be called in relation to the allegations only. Character witnesses will not be permitted.

- 6.51 The University may also invite one or more witnesses to the hearing. If it does so, the student will be told of this in advance of the hearing.
- 6.52 The Investigating Officer will be invited to the hearing to present their report and to allow the hearing panel members to ask any questions they may have on this.
- 6.53 At least two members of the Appeals and Conduct Committee will be present at the hearing; Committee members with previous involvement with the case shall not take part. One member of the Committee will be appointed as Chair of the panel.
- 6.54 A [President or Student Officer](#) will also be present to ensure there is student representation on the panel.
- 6.55 It is expected that all parties will attend the hearing, separately. If any party is unable to attend for a valid reason, they should inform the Casework Team, who will make reasonable efforts to reschedule. If either party opts not to attend, the hearing panel reserves the right to draw conclusions, as deemed appropriate.
- 6.56 In the Hearing, the Investigating Officer, Reporting Party, and Responding Party can speak to the Panel. Hearing panel members can ask questions to the Investigating Officer, Responding Party, and witnesses. Only the Chair can directly question the Reporting Student. Questions from others must go through the Chair, who will decide if they are appropriate.
- 6.57 At the conclusion of the hearing, the hearing panel members will discuss the case in private and will reach a decision based on the available evidence. Panel members will either uphold the case or dismiss the allegation. If the panel members agree that a disciplinary offence was committed, a penalty will be imposed as identified from the list below.
- 6.58 The Panel will endeavour to make a decision as soon as possible, but no later than **one working week** of the hearing.
- 6.59 In cases where allegations are not upheld, the Chair will meet with the reporting party to communicate the hearing panel's decision. For cases where allegations are upheld, all parties will receive notification of the outcome. For cases that are not upheld the notification will explain the rationale for not upholding the allegations.
- 6.60 A formal record of the hearing will be shared with both parties.

Penalties

- 6.61 Penalties available to the Appeals and Conduct Committee are:
- a) A verbal warning;
 - b) Written warning/reprimand (a copy will be retained on file for the remainder of studies);
 - c) Restitution of any damage caused;
 - d) Enforced suspension;
 - e) Exclusion from specified University facilities or activities;
 - f) Expulsion;
 - g) Other such actions as may be appropriate to the case.
- 6.62 More than one penalty may be applied. Previous misconduct may be taken into account in deciding the appropriate penalty.
- 6.63 Failure to comply with any action required following the outcome, could result in further disciplinary action from the list above. The Disciplinary Officer will be notified of any failings and will determine if further action should be taken.

Appeal

- 6.64 Reporting and responding parties have the right of appeal against the decision of the Appeals and Conduct Committee on the grounds that:

- a) The decision of the Committee was disproportionate in the light of the evidence supplied (Student's cannot appeal solely because they disagree with the outcome, but they can appeal if they believe the decision was not supported by the evidence presented);
 - b) The procedure for the hearing was deficient in a way which materially prejudiced the case;
 - c) That further evidence has become available since the hearing which would materially affect the decision.
- 6.65 Appeals against decisions of the Committee will be heard by the Vice Chancellor or nominee. Appeals must be made within **ten working days** from the date on the hearing outcome letter. The student must email the Student Casework Team at casework@yorksj.ac.uk to confirm the grounds on which the appeal is made.
- 6.66 The Vice Chancellor or nominee will normally review the case based on the existing case documentation, unless new evidence has become available and there is a good reason why it was not available previously.
- 6.67 The Vice Chancellor or nominee may:
- a) Dismiss the case and allegations;
 - b) Enforce the penalty;
 - c) Adjust the penalty;
 - d) Refer the case back for further investigation – please note this may be with a different Investigating Officer;
 - e) Refer the case for further consideration by the Appeals and Conduct Committee.
- 6.68 The Casework Team will communicate the decision of the Vice Chancellor's (or delegate's) review in writing as soon as possible and normally within **10 working days**.
- 6.69 Where an outcome is changed following an appeal to the VC both parties will be notified.

7 Confidentiality

- 7.1 The university is committed to handling disclosures of sexual harassment and misconduct with sensitivity and confidentiality. All processes will align with the University's Data Protection Policy and safeguarding obligations to protect the privacy and dignity of those involved.
- 7.2 Maintaining confidentiality is essential to ensure the integrity of the investigative process, protection of the privacy of the individuals concerned, and to encourage reporting of incidents without fear of retribution or exposure.
- 7.3 Information related to disclosures is typically shared only with individuals or organisations directly involved in the case management this may include but is not limited to:
- Registry staff for administrative purposes.
 - Student Services, including Wellbeing, Welfare, Disability support services to provide appropriate care and assistance.
 - Witnesses who can provide relevant information.
 - Experts from agencies like Sexual Assault Referral Centres, for specialist support and advice
 - The police, if necessary, to ensure legal compliance and safety.
- 7.4 In exceptional circumstances, where there is concern for the safety of individuals or the broader community, or to prevent potential crimes, the University may share information beyond the usual channels. Such actions will be taken in accordance with legal and ethical standards to minimise risks and protect all parties involved.
- 7.5 All involved parties required to maintain confidentiality. Any unauthorised disclosure of information will be considered a violation of this policy and may result in disciplinary actions, which could include suspension or enforced withdrawal of employment or enrolment, depending on the severity of the breach.
- 7.6 The University ensures compliance with General Data Protection Regulation (GDPR) and the Data Protection Act (2018) throughout all proceedings.

8 Completion of the University Disciplinary Procedure

Student

- 8.1 If the appeal is rejected, the student will be sent a 'Completion of Procedures Letter'. If the student remains dissatisfied, they 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, see the OIA website: www.oiahe.org.uk.

9 Appendix 1: Involvement of police and criminal courts

- 9.1 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, e.g. 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 Disciplinary Officer 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 student from unauthorised disclosure, including further distress to the student and loss of trust in the University.
- 9.2 Once the Reporting Party has made a decision about the next step then, save in exceptional circumstances, for example, where a report to the police is necessary to protect the reporting student (or others) from harm or to prevent a further crime taking place, the university should seek to act in accordance with the reporting student's wishes.
- 9.3 Where a reporting student does not report or retracts a statement in relation to an alleged serious offence to the police, and the Disciplinary Officer does not intervene to do so, 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 Student Dignity and Respect Policy and the Student Disciplinary Policy and Procedure is more likely than not to have taken place.
- 9.4 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.
- 9.5 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.
- 9.6 If the offence is referred to the police, the Disciplinary Officer will usually decide to postpone full disciplinary action until the police and courts have dealt with the matter. The criminal justice system takes priority, and the University will avoid taking any action that may in any way compromise criminal proceedings.
- 9.7 Where a disciplinary case has been postponed pending the outcome of police investigation or judicial process, the University will normally follow the formal disciplinary procedure after a criminal case has been concluded. The judicial outcome will be taken into account by the University, although it may reach a different conclusion to that of the court as it is operating on a different standard of proof (the balance of probabilities rather than beyond reasonable doubt) and may consider different evidence. If the situation alters as a result of an appeal against conviction or sentence, the University reserves the right to re-consider its action once any formal legal process has been completed.
- 9.8 Where a criminal conviction has been made against a student, the University will not re-investigate the matter. The finding would be made by the University that the student has engaged in misconduct by committing a criminal offence. The responding student would still be given an opportunity to respond to the allegation of misconduct by committing a criminal offence.
- 9.9 If, as a result of due judicial process, either party are 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. Both parties will be informed of the date of the hearing and are entitled to send a representative, if they wish.

Version Control Statement

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	<p>Purpose</p> <p>acknowledgement that students with protected characters are at heightened risk of being impacted by sexual harassment and sexual misconduct.</p> <p>Scope</p> <p>addition of contractors to scope and link to Code of Practice on Freedom of Speech and Academic Freedom.</p> <p>Section 3</p> <p>Definition of sexual misconduct amended to mirror OfS definition, removal of harassment (dealt with under Student Disciplinary Policy and Procedure).</p> <p>Section 4</p> <p>Statement that the university does not subscribe to Non-Disclosure Agreements in matters relating to harassment/sexual misconduct, clarification about which policy will apply if a matter is raised regarding an incident that occurred prior to changes in university policies.</p> <p>Section 5</p> <p>Clarification that the university will provide support, even if investigation threshold is not met and even if it does not take place within the university context, clarification that academic accommodations are considered for all parties, including witnesses.</p> <p>Section 6</p> <p>Includes reporting acceptance from third parties.</p>		Executive Board