

University of Exeter

Sexual Misconduct Procedure for Students

Section 1

1. Introduction

- 1.1 This Sexual Misconduct Procedure (the “**Procedure**”) sets out how the University will deal with alleged incidents of Sexual Misconduct committed by student members of the University community (other than those on registered programmes where the Fitness to Practise procedure will apply). This Procedure is part of the University’s Sexual Misconduct Policy (the “**Policy**”) and should be read in conjunction with that Policy.
- 1.2 A glossary of terms used in this Procedure is set out at **Annex A**. Definitions of sexual misconduct are set out on sections 10.3 and 10.4 of this Procedure.

2. Scope

- 2.1 This procedure applies to you if you are a student and you have experienced sexual misconduct from another student. If you wish to report an incident of sexual misconduct by a member of staff, you should raise the matter with the relevant College or Service through the University’s Complaints Procedure. You may also seek the support of the Lead for Sexual Misconduct (LSM), a trained expert in the area of supporting victims of sexual misconduct, who is available to provide initial support for all students (undergraduate and postgraduate), as well as available to staff who experience and/or wish to report an incident of sexual misconduct.
- 2.2 This Procedure applies to all Reported Incidents of Sexual Misconduct. It does not cover incidents of non-sexual harassment or misconduct which should be considered under the University’s Complaints Procedure.
- 2.3 If a conflict arises between this Procedure and any other procedures of the University, then the LSM shall consult with the University’s Student Cases Team to determine which procedure will be used.
- 2.4 More information on support available for students wishing to report an incident of sexual misconduct can be found at: [<https://www.exeter.ac.uk/about/speakout/sexual-misconduct/>]

3. Management of this Procedure

The Director of Compliance Governance and Risk (CGR) has oversight responsibility for this Procedure. The day-to-day management of this Procedure will be undertaken by the LSM and the University Student Cases Team as relevant.

4. Police Investigations and Judicial Proceedings

- 4.1 This Procedure is designed primarily to protect and assist students who experience and wish to report incidents of Sexual Misconduct to the University, and also to provide support and guidance in determining the course of action that is most appropriate for them. In this procedure, a student who wishes to report is known as the Reporting Party.
- 4.2 Where a criminal investigation or judicial proceedings are ongoing or are likely to commence in respect of a Reported Incident(s), the University will not normally investigate the Reported Incident(s) and will suspend any ongoing investigation, but it will undertake any necessary precautionary action.
- 4.3 A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action in relation to a criminal matter, or an acquittal at a trial, does not preclude

the University from taking action under this Procedure and does not mean the Reporting Party has made a vexatious or malicious complaint or that the complaint is unfounded.

4.4 In all cases, the University will advise the Reporting Party that it does not have the legal investigatory powers of the Police and cannot make a determination on criminal guilt beyond a reasonable doubt. An internal investigation is focused exclusively on whether, on the balance of probability, an act of sexual misconduct breaching this Procedure has occurred. The University's internal processes and this Procedure cannot, therefore, be regarded as a substitute for a Police investigation or criminal prosecution.

4.5 Where an Accused Party has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of the Procedure, this will be considered by the Investigating Officer when reviewing the case.

5. Support

5.1 The University is committed to providing support for those members of its community affected by sexual misconduct.

5.2 The University will provide information on support resources available and offer interim measures as appropriate to the Reporting Party, the Accused Party, and to any witnesses involved in any incidents and Reported Incident(s) of Sexual Misconduct.

5.3 Support resources are available to any member of the University who makes a:

- Disclosure, regardless of their choice to do so anonymously or to whom they disclose; or
- Report, regardless of whether they also make a report to the Police.

The support available is set out at:

<https://www.exeter.ac.uk/about/speakout/sexual-misconduct/>

6. Monitoring

6.1 The University will maintain a confidential central record of formal Reported Incident(s) covered by this Procedure, including anonymous disclosures, to engage effectively in prevention and response initiatives.

6.2 The LSM will ensure that the University Inclusivity Group, the University Executive Board (UEB), Senate and Council (and any relevant sub-committees) are regularly provided with anonymised data concerning the cases that are dealt with under this Procedure.

Section 2: Procedure

7. Reported Incident(s)

7.1 A Reporting Party can take two separate actions, either 1) make a Disclosure; and/ or 2) make a Report. The University recognises the importance of minimising the number of times the Reporting Party has to disclose an incident of Sexual Misconduct.

7.2 The process below will be initiated following receipt by the University of a Disclosure. The Disclosure may be made in a variety of ways, for example:

- To a member of staff
- To a member of the Students' Guild

- Through the Exeter Speaks Out anonymous reporting tool
- Through the Exeter Speaks Out informal reporting tool
- Through a request for mitigation
- Through a formal process, such as an academic appeal, complaint, or misconduct process
- To another student, friend or family member, who may subsequently bring the matter to the University's attention.

7.3 A Disclosure, for the purposes of this Procedure, may only relate to a Reporting Party who is (or is thought to be) a student member of the University community. A Disclosure does not automatically result in a Report to the University being made under the Procedure. The University respects the right of the Reporting Party to choose how to take forward a Disclosure. When deciding how to take forward a Disclosure, a Reporting Party will be advised upon the timescales recommended by the [Sexual Assault Referral Centre \(SARC\)](#) if [forensic evidence is to be collected](#).

7.4 A Disclosure may be made anonymously using the [anonymous reporting tool](#) on the University website. In this case, the University would not be able to act on the information or respond to the Reporting Party in person. It would not be possible to identify any individuals from the data collected in this form; the University would use the information provided to help understand what kind of incidents were taking place within our community and take positive action; and a report on the data collected would be considered by the University's Inclusivity Group, the University Executive Board (UEB), Senate and Council, and this information will be published annually online.

7.5 Where a Disclosure is not anonymous, the Reporting Party will be given the option and support to do one or more of the following:

- report the incident(s) to the Police;
- disclose to the Devon and Cornwall [SARC](#) or [Devon Rape Crisis](#);
- make a Report to the University;
- make no report of the incident to either the Police or to the University; and/or
- receive advice on the support that is available.

7.6 Following a Disclosure, the Reporting Party will be immediately given information on resources for specialist support (including the external support available at the SARC) and informed of their reporting options. The University recognises that the Reporting Party may require time and reflection before making a decision.

7.7 University staff are encouraged to signpost anyone who discloses a relevant incident of sexual misconduct to the Devon and Cornwall [SARC](#) so that they may access the external services and guidance it provides. This will also allow the Reporting Party to make an anonymous report and have evidence stored while they choose if they want to report to the Police. Where relevant, staff are also encouraged to signpost the Reporting Party to information from the SARC on how to preserve evidence. Staff can make a referral to the SARC on behalf of the Reporting Party with their agreement.

Staff who receive a Disclosure must inform the LSM as soon as is practicable. They may, if the Reporting Party requests, omit the name of the Reporting Party and/or Accused Party. However, no formal action can be taken where Reporting Party wishes to remain anonymous¹. The LSM will ensure that any reports are passed to the University Student Cases Team.

7.8 Where the Reporting Party chooses, to make a Report, and is supported in doing so, a written statement of the allegation should be submitted setting out the following:

- the Accused Party (if known);

- details of the Reported Incident(s)^{2*}
- details of witnesses (if any).

7.9 Alternative reporting options may be available and the Reporting Party may request this information from the member of staff to whom they disclose details of the Reported Incident(s). The Reporting Party may request support with reporting the Reported Incident(s), which may be given by the LSM or a Welfare advisor. If the Reporting Party is unwilling for the Accused Party to be informed of the allegation against them, an investigation cannot proceed.

7.10 Pending a Case Management Conference (CMC), the LSM shall take such steps as may be necessary to:

- ensure both the Reporting Party and the Accused Party, together with any witnesses (as relevant), receive appropriate academic and pastoral support, including access to Wellbeing and related services; and
- ensure that confidentiality is maintained.

7.11 The LSM will determine whether a CMC should be convened based on the information available, or whether further information may need to be gathered before a decision can be made on whether a CMC is necessary.

7.12 Where the LSM determines that sufficient information exists, and it is relevant to do so, the LSM will instruct the University Student Cases team to make arrangements for a CMC in accordance with Paragraph 8 below.

8 Case Management Conference

8.1 Following a Report, the Reported Incident(s) will be considered at a CMC.

8.2 The CMC may be chaired by the LSM (or their delegate in their absence).

8.3 The purpose of a CMC is to assess support needs, consider how to protect the interests of all parties and members of the University community who may be affected by the case, and to agree next steps (the substance of any Report will not normally be considered at the CMC).

8.4 The membership of the CMC will depend upon the nature of the Reported Incident(s) and will be determined by the LSM. The membership must include, as a minimum, 3 of the following role holders:

¹However, in certain circumstances, where there is a clear and immediate risk to the health, safety and well-being of the Reporting Party or evidence of a criminal act, the University reserves the right to refer the matter to the Police.

²At this stage, it is not the job of the reporting party to 'prove' the allegation. This is a matter for the subsequent investigation. What the University requires initially are the fullest details of the incident that can reasonably be provided

- the Head of Student Services (or nominee);
- the Head of the Wellbeing Service (or nominee);
- the Head of Student Cases (or nominee);
- the Head of Legal Services (or nominee);
- the Director of CGR (or nominee); and
- a senior representative from the College(s) of the Reporting Party/Accused Party (as relevant).

8.5 In addition, consideration will be given to the contribution of external stakeholders who are actively involved in supporting the student(s) affected. This may include, but is not limited to, information provided by representatives from the Devon and Cornwall SARC, [Devon Rape Crisis](#) or the Safeguarding Manager based within the local Police force.

8.6 During the CMC, the members will:

- consider the academic, welfare and support needs of the Reporting Party, of the Accused Party, and of any other members of the University community directly involved in the Reported Incident(s), as well as the welfare and support needs of those involved in the Disclosure, and identify any actions required to ensure that those needs are met; and
- undertake a risk assessment in order to determine whether any precautionary measures need to be put in place in order to:
 - ensure that a full and proper investigation can be carried out (either by the Police or the University) and/or
 - protect the Reporting Party, the Accused Party, or any others as deemed necessary, whilst the allegation is being dealt with as part of a criminal process or a disciplinary process.

Precautionary measures, as described in Section 12 of the Disciplinary Procedure, may include:

- imposing conditions on the Accused Party as stipulated in a precautionary contract; and/or
- suspending the Accused Party from any class or classes and/or excluding the Accused Party from any or all University facilities, grounds and premises, until such a time as any criminal proceedings and/or University disciplinary proceedings have concluded; and/or
- notwithstanding the Accused Party's rights under the University's Accommodation Contract, requesting that the Accused Party moves to alternative accommodation (where relevant).
- identify the members of staff within the University with responsibility for supporting the Reporting Party and Accused Party;
- ensure that arrangements are in place to maintain confidentiality;
- review the involvement of external agencies;
- determine what next steps should be taken and how to carry forward the decisions and/or recommendations that are made; and/or

- consider any other actions relevant to the Reported Incident(s) in accordance with the Complaints Procedure/ Disciplinary Procedure (as relevant).

8.7 Actions arising out of the CMC may include (but are not limited to):

- the provision of further or different support to the parties involved. The support measures may relate to health and well-being, academic, housing, or finance matters;
- the recommendation of precautionary conditions (as explained above) on the Accused Party pending the outcome of the criminal and/or disciplinary process;
- a recommendation that the Reported Incident(s) set out in the Report be investigated in accordance with this Procedure;
- appropriate communication with the parties involved; and/ or
- collection of further information necessary to inform future management of the situation.

8.8 Where the Reporting Party has proceeded with a Police investigation, the CMC will confirm this and will normally suspend proceedings, pending the outcome of any criminal investigation or judicial proceedings.

8.9 A CMC will be reconvened after the conclusion of a criminal investigation or judicial proceedings to recommence the University's processes under this Procedure.

8.10 The LSM will be responsible for ensuring that any decisions or recommendations made at the CMC are recorded and acted upon, liaising with relevant University managers and officers as appropriate within the established institutional and academic governance arrangements.

8.11 The risk assessment and any precautionary measures that are put in place will be reviewed regularly by the LSM and amended as appropriate. Additional review meetings may be convened by the LSM as they believe necessary.

8.12 Where the CMC determines that a Reported Incident(s) should not be investigated in accordance with this Procedure, the LSM shall provide the Reporting Party with reasons for the determination and information about their right to seek a review or challenge the decision under the [Complaints Procedure](#). This will be done through a face to face meeting and subsequently confirmed in writing.

9. Investigation of a Report

9.1 Where the CMC recommends that a Report should be investigated, a specially trained Investigating Officer ("IO") will be designated as Authorised Officer under the Disciplinary Procedure, [Section 6](#). The IO will seek to gather evidence as to whether or not a breach of the Disciplinary Procedure has occurred.

9.2 The IO will act promptly and tactfully, observing confidentiality at all times and will take all appropriate measures to provide a safe, comfortable and supportive environment in which to discuss the Reported Incident(s) with the Reporting Party, the Accused Party, and any witnesses. The IO may also consult external parties to seek specialist advice as required while ensuring that confidentiality is maintained.

9.3 At the start of the process, the Reporting Party will be required to attend an investigative meeting with the IO, during which the procedure to be followed will be explained, and the details of the Reported Incident(s) will be confirmed. If the Reporting Party is unwilling for the Accused Party to be informed of the allegation against them, an investigation cannot proceed. A full written record of the meeting will be kept and shared with the Reporting Party, who will be asked to confirm whether it is an accurate summary of the discussion. The Reporting Party may be accompanied by a supporter.

- 9.4 The IO will also meet individually with any potential witnesses. A full written record of meetings will be kept and shared with the witnesses, who will be asked to confirm whether they are an accurate summary of the discussion. A witness may be accompanied by a supporter.
- 9.5 On receipt of the confirmed records of the discussions from the Reporting Party and the witness(es), an investigation will be undertaken as quickly as possible and will normally begin within 5 working days of the final meeting with the witness(es) (or, where there are no witnesses, the meeting between the IO and the Reporting Party). All parties involved will be expected to maintain appropriate levels of confidentiality.
- 9.6 Depending on the circumstances, it is likely that the Reporting Party and the Accused Party will be informed that they must not make any contact with each other during the course of the investigation, unless otherwise instructed by the IO.
- 9.7 The Accused Party will receive written notification of the allegation(s) made against them, be informed of the procedure being followed, and asked to attend a meeting with the IO. The meeting will be held in accordance with Section 6 of the Disciplinary Procedure. During this meeting the procedure will be explained and the details of the allegation(s) against them will be confirmed. The Accused Party will be given a full and fair opportunity to explain or present their version of events in response to the allegation. The Accused Party may also be accompanied by a supporter.
- 9.8 In all investigatory meetings, a record will be made and the interviewee will be asked to confirm that it is an accurate summary of the discussion. The interviewee may make any written comments about any section of the record that they do not agree with. Copies of the confirmed record, with any comments, will be retained by both the interviewee and the IO.
- 9.9 The IO may hold additional meetings or consult with additional parties as necessary to obtain relevant information and evidence.
- 9.10 The IO may either:
- decide, in accordance with Section 4.6 of the Disciplinary Procedure, that no further action is required (for example, because there is insufficient evidence that the Reported Incident(s) took place). In such an instance the case will be dismissed and no disciplinary action will be taken; or
 - decide that further action is required, as explained in either Section 7.1 of the Disciplinary Procedure (Minor Offences) or Section 9.1 of the Disciplinary Procedure (Major Offences).

10 Breaches of the Disciplinary Procedure

- 10.1 If the IO determines that further action is required, they will decide whether the Reported Incident(s), if proven, would constitute a breach of the Disciplinary Procedure and, if so, whether it should be treated as a Minor or Major offence.
- 10.2 When making their decision, the IO will take into account the nature of the Reported Incident(s), the evidence available and any mitigation present to determine whether:
- the case will be dismissed by the IO under Section 4.6 of the Disciplinary Procedure;
 - the IO classifies the Reported Incident(s) as a potential Minor Offence under the Disciplinary Procedure, or
 - the IO should seek classification from the Head of Student Cases (or their nominee) that the Reported Incident(s) is a potential Major Offence under the Disciplinary Procedure.

A list of the types of behaviour which may be considered to constitute a Minor Offence and a list of the

types of behaviour which may be considered to constitute a Major Offence are set out below. *The lists are illustrative only and are not exhaustive.*

10.3 Under the Disciplinary Procedure, sexual misconduct breaches that would normally constitute a Minor Offence include:

- kissing another person on the hand or cheek without consent where there is no sexual element or other harassing behaviours involved;
- making a single one-off remark of a sexual nature;
- inappropriately showing sexual organs to others where the act is not focused upon any individual;
- In contravention of the University's policies on the use of its IT systems, watching pornography or looking at sexualised imagery on University IT equipment beyond that required by legitimate, academically-motivated activity;
- Participating in any sexualised commentary about others online or in person – for example 'rate my lecturer'.

10.4 Under the Disciplinary Procedure, sexual misconduct breaches that would normally constitute a Major Offence may include:

- engaging or attempting to engage in a sexual act without consent;
- kissing another person without consent where there is any sexual element;
- touching others inappropriately;
- threatening or abusive behaviour of a sexual nature;
- recording or sharing intimate images or recordings of another person without their consent;
- instances where minor sexual misconduct is frequent or repeated even once or the Accused Party fails to comply with disciplinary decisions or sanctions;
- any humiliation or participation in the humiliation of anyone (in person or online) who has reported sexual misconduct

10.5 If, on completion of the investigation under Section 6 of the Disciplinary Procedure, the IO determines that the Reported Incident(s), on the balance of probability, is a proven Minor Offence under the Disciplinary Procedure, the IO will apply a penalty from those permitted under Section 7 of the Disciplinary Procedure.

10.6 The circumstances and context of each case will be taken into account when determining whether a penalty(s) should be imposed and if so, which penalty(s) should be imposed and, where relevant, the timeframe for compliance. The penalties/actions permitted under Section 7 of the Disciplinary Procedure for Minor Offences are:

- no further action;
- a caution, which means that no penalty is imposed, but if the student is found guilty of the same or similar offence on a subsequent occasion in the following 12 months (or some other specified period) they will then be dealt with for both offences;
- a written warning;

- a behavioural contract;
 - a suspended fine of not less than £50 but not exceeding £200 (in the case of a suspended fine the IO will advise the student of the circumstances in which the fine would become payable);
 - a fine of not less than £50 but not exceeding £200 per offence;
 - compulsory attendance at an appropriate workshop(s);
 - restitution of damage (where physical damage has been caused);
 - restorative justice (e.g. a letter of apology) where the Reporting Party requests it and/or
 - temporary or permanent exclusion from the use of specific University facilities or services.
- 10.7 If the Accused Party fails to comply with the sanctions imposed by the IO within the time specified, they may be considered to be in breach of the ruling as defined under Section 5 of the Disciplinary Procedure of '*failure to comply with a disciplinary penalty*', which may result in the Accused Party being referred to a (Non-standing) Major Disciplinary Board (as defined under Section 9 of the Disciplinary Procedure)
- 10.8 If, on completion of the investigation under Section 6 of the Disciplinary Procedure, the IO determines that the Reported Incident(s) on the balance of probability, is a potential Major Offence under the Disciplinary Procedure, they will refer the matter to the Head of Student Cases (or their nominee) for classification. This may result in the case being classified as Minor (with a penalty applied from those permitted under Section 7 of the Disciplinary Procedure) or the case being referred to a (Non standing) Major Disciplinary Board under section 9 of the Disciplinary Procedure.]
- 10.9 The Major Disciplinary Board may impose any of the penalties set out in Section 10.6 above. In addition, a Major Disciplinary Board may make a recommendation that Senate exercise the authority granted under the University Statutes to permanently exclude the student from the University, which can include exclusion from all University facilities, grounds and premises
- 10.10 Information on the format of a Major Disciplinary Board can be found [here](#):
- 10.11 Where a case of alleged sexual misconduct is referred to a Major Disciplinary Board, the Chair of the Board will be required to have undergone University approved specialist training in the area of managing cases of sexual misconduct.
- 10.12 When convening a Major Disciplinary Board, the Chair will give consideration to how best to support the Reporting Party with regard to the presentation of evidence.
- 10.13 Under this Procedure, on completion of an investigation, the IO will write a report explaining the consideration of the Reported Incident(s) and the decision that they reached. Details of the decision reached will be provided to both the Reporting Party and the Accused Party.
- 11. Request for a Review**
- 11.1 If the Reporting Party or the Accused Party is dissatisfied with the outcome of the case, or if they believe the matter has not been handled fairly in accordance with this Procedure, they may request a review in writing. They may also seek advice and support from the LSM in preparing their request for a review.
- 11.2 The Reporting Party should submit their request for review of their case as described in Section 7.3 of the University's Complaints Procedure. As explained in the Complaints Procedure, the request for review will be considered by a senior member of the University who has not had involvement with the case at an earlier stage, along with a member of the University Student Cases team, both of who will have undertaken University approved specialist training in the area of managing sexual

misconduct.

- 11.3 The Accused Party should submit their request for a review of their case as described in Section 8 (Right of Appeal for Minor Offences), or Section 10 (Right of Appeal for Major Offences) of the Disciplinary Procedure, as relevant.
- 11.4 In either case, the relevant Party must normally submit their request for review to the University Student Cases Team within 20 working days of the conclusion of the case (as described in the Complaints Procedure for the Reporting Party, and the Disciplinary Procedure for the Accused Party).
- 11.5 The review request should include details of why the Party is dissatisfied, in accordance with the grounds of appeal as specified under the Complaints Procedure (in the Reporting Party's case) or the Disciplinary Procedure (in the Accused Party's case).
- 11.6 The review request will be reviewed on the basis of the documentation provided by the relevant Party and held by the IO. The review of the complaint (if submitted by the Reporting Party) or the disciplinary outcome (if submitted by the Accused Party) will be conducted in accordance with the arrangements set out in the respective procedure.
- 11.7 The other Party will not be informed that a review request was made, its details, or its outcome unless the review is upheld and any further action materially affects the other Party.
- 11.8 The Party who requested the review will be informed of the outcome of the review in accordance with the arrangements and timescales set out in the relevant procedure. The decision of the review will be final

12. Office of the Independent Adjudicator for Higher Education

Once all internal processes have been exhausted, a student can make a complaint to the Office of the Independent Adjudicator for Higher Education (OIA) if they remain dissatisfied with the University's decision. Further information is available on the OIA website: www.oiahe.org.uk.

Appendix A – Glossary of Terms

Accused Party	means the University student who is accused in a Reported Incident(s).
CGR	means the Directorate of Compliance, Governance and Risk.
CMC	Case management conference to consider a Report
Complaints Procedure	means the University's Students Complaints Procedure as set out here :
Council	means the University's Council.
Disciplinary Procedure	means the University's Student Disciplinary Procedure as set out here
Disclosure	means a disclosure of an Incident under this procedure.
IRM	means an initial review meeting to consider a Report.
IO	means Investigating Officer
LSM	means the lead for Sexual Misconduct, who is the lead for the integrated management of Reported Incident(s) and supporting students who report under this Procedure.
Major Offence or Major	means a major offence as defined as such by the Disciplinary Procedure.
Minor Offence or Minor	means a minor offence as defined as such by the Disciplinary Procedure.
Policy	means the Sexual Misconduct Policy.
Procedure	means this Sexual Misconduct Procedure.
Report	means a formal report of a Reported Incident(s) which is taken forward as a formal investigation by the University Student Cases Team.
Reported Incident(s)	means an allegation of an incident of Sexual Misconduct.
Reporting Party	means the party who reports a Reported Incident(s).
SARC	means a Sexual Assault Referral Centre, an external organisation which provides independent support and advice on incidents of sexual misconduct.
Senate	means the University's Senate.
Sexual Misconduct	means any acts, behaviours, or conduct which amount to sexual misconduct, examples of which are set out at paragraphs 10.3 and 10.4 of this Procedure. This is not intended to be an exhaustive list.
Student	means any undergraduate or postgraduate student formally registered on a programme of study at the University of Exeter, including postgraduate research students and visiting students.

Supporter	means a person who is there to provide moral support, to support a student in preparing for the meeting, and to support the student with asking and answering questions during the meeting. A student is expected to speak on their own behalf, there is no automatic right for a supporter to speak on a student's behalf, and it is at the IO's discretion as to whether a supporter is permitted to address a meeting. Should a supporter act outside those actions described, the IO will suspend the meeting and ask the supporter to leave; in the event that the student is unable to continue the meeting without their supporter being present, the meeting will continue in the student's absence based on any documentation provided and any verbal representations received up to that point.
University	means the University of Exeter.
UEB	University Executive Board