



## POLICY ON STUDENT SEXUAL VIOLENCE AND MISCONDUCT

### Introduction

1. This policy applies to all registered students of the University and underpins the Regulations on Student Conduct and Discipline, explaining how the Regulations are implemented for cases of sexual misconduct. In certain circumstances, the policy may also apply to applicants and former students of the University.
2. In accordance with the University's Student Code of Conduct, which is articulated in the Regulations and the Dignity and respect framework, the University expects all students to contribute to ensuring that the University is a safe environment in which to study, live and work.
3. The University does not tolerate any acts of sexual misconduct and will consider any allegations of such misconduct, normally with the permission of a reporting party(s), in accordance with the Student Conduct and Discipline Regulations and associated policies and procedures, including this policy.
4. The University considers all cases of sexual misconduct to be major interpersonal non-academic misconduct.
5. Where reference in this policy is made to a 'case' this means a formal report made by an individual(s) about a student, which is being formally considered.
6. If, during the course of the disciplinary process another individual, for example, a witness discloses information that suggests that they may have been subject to alleged sexual misconduct by the same reported student, they will be referred to Student Support Services to discuss whether they wish to make a formal report. This will then be considered alongside any other reports on the same student and may be considered by the same Student Discipline Panel, as appropriate.
7. This policy applies to allegations by an individual(s) about a student. Where an allegation is made about a member of staff, consideration of the allegation will be handled by Human Resources through the University's staff disciplinary process.
8. If a member of staff makes an allegation about a student, this will normally be considered through the student disciplinary process by the Student Conduct Team.
9. A report made about a student from an individual who is not a member of the University will be considered as is reasonable or practicable.

### Purpose



10. The purpose of this policy is to explain:

- expectations with respect to student behaviour;
- definitions of what constitutes sexual misconduct;
- how allegations of sexual misconduct will be considered and investigated;
- the roles of staff and students in the discipline process;
- the framework and constraints under which the University operates when considering allegations of sexual misconduct;
- how the University works in partnership with external agencies;
- how reporting and reported students will be supported through the discipline process.

### Principles

11. This policy is governed by the principles defined in the Regulations for Student Non-Academic Misconduct.

### Scope

12. This policy applies to all types of behaviour that may be considered sexual misconduct, including sexual harassment. A non-exhaustive list of examples of types of sexual misconduct is given below. The University will consider and investigate any alleged serious misconduct that is deemed to be of a sexual nature under this policy.

13. Sexual misconduct can take place between individuals who know each other, are in a relationship with one another, have previously engaged in consensual sexual activity and between individuals who do not know each other. Those of any gender identity, age, ethnicity/race and sexuality can commit sexual misconduct.

14. Sanctions applied because of the disciplinary process will be determined by the nature of the misconduct.

15. In all examples below where consent is referenced, this is taken to be the legal definition of consent, i.e. *a person consents, if they agree by choice and have the freedom and capacity to make that choice.* (Sexual Offences Act, 2003)

16. It is the responsibility of all parties engaged in sexual behaviours to obtain ongoing consent from all involved and to be able to later reference how this consent was provided by other parties, if needed.

### Definitions

#### Sexual Misconduct involving physical contact

- Sexual intercourse or engaging in sexual acts without consent



- Penetration of the anus, vagina or mouth with any body part or other object without consent
- Attempting to engage in sexual intercourse or sexual acts without consent
- Kissing without consent
- Any form of unwanted sexual touching in what may reasonably be perceived as a sexual manner without consent, for example, touching a person's clothes, stroking their hair, touching their body or deliberately rubbing or brushing up against them or standing too close to them.

#### Sexual Misconduct not involving physical contact

- Making unwanted remarks that may reasonably be perceived to be of a sexual nature, for example, making sexual remarks about a person's body, asking questions of a sexual nature, making sexual comments or innuendo or telling sexual jokes
- Making unwarranted and unsolicited noises to another person such as wolf-whistling or catcalling or sex-based noises such as sexual grunting or moaning
- Repeated, unwanted and unsolicited contact of a sexual nature either in person or by telephone
- Sharing or creating private sexual materials (i.e. those made of an individual with the understanding that they would not be shared) such as videos or photographs in physical spaces – including the creation of imagery without the individuals' involved consenting at any stage of that creation (e.g. "deepfakes")
- Sharing or creating public sexual materials (i.e. those pornographic materials that are widely available via media outlets) in physical spaces with the intention to sexually harass or incite harassment or violence
- Inappropriately showing sexual organs (e.g. penis/ external genitalia) to another person, or inappropriately allowing sexual organs to be seen, in a physical space – including masturbation in a public space

#### Sexual Misconduct Online or in a Virtual Space

- Sharing or creating private sexual materials without the consent of those involved (i.e. those made of an individual with the understanding that they would not be shared) online or through digital spaces – including the creation of imagery without the individuals' involved consenting at any stage of that creation (e.g. "deepfakes")
- Sharing or creating public sexual materials (i.e. pornographic materials that are widely available via media outlets) online or in digital spaces with the intention to sexually harass, abuse or incite harassment or abuse
- Inappropriately showing sexual organs to another person, or inappropriately allowing sexual organs to be seen, online or in digital spaces – including masturbation in a public space
- Repeated, unwanted and unsolicited contact of a sexual nature with another person by text message, e-mail, social media or in any online or digital space (Note: "repeated contact" in an online space constitutes repeated unsolicited contact in one digital platform or multiple unwanted contacts in numerous digital platforms)



- Storing or viewing inappropriate material on University IT equipment

#### Disclosing, Reporting and Reported Student/Party(s)

- The disclosing student/party(s) refers to an individual(s) who is disclosing an allegation of sexual misconduct to another individual
- A reporting student refers to a student who has made a formal report of alleged misconduct by another student to the University
- A reported student refers to a student who has been reported for alleged sexual misconduct by another student or individual

#### **Disclosure and Reporting**

22. Students can make a disclosure to Student Support Services through a number of channels, normally Report & Support (<https://reportandsupport.le.ac.uk>), or by meeting directly with relevant staff members in the Service.
23. If a student makes a disclosure to someone other than a Case Worker from Student Support Services, that person should send the disclosure to Student Support Services normally with the consent of the disclosing student, and a Case Worker will communicate with the staff member and student to offer support. If more information is required regarding the role of the Case Worker.
24. When a disclosure is made the disclosing party(s) will be offered an options conversation by a Case Worker. Where required, a risk assessment will also be carried out by relevant members of the Cause for Concern Group, and if necessary, appropriate precautionary measures recommended to the Academic Registrar or nominee.
25. Precautionary measures will also be reviewed and considered by the Major Misconduct Review Group that may determine additional measures are necessary.
26. This options conversation (point 24) will provide appropriate options to disclosing parties in relation to both support and reporting from/to internal and external specialist services.
27. Where there are multiple disclosing parties in relation to one particular incident or case, they will all be offered support and relevant options conversations at this stage.
28. If a disclosing party decides that they wish to make a formal report to the University they should submit a Non-Academic Misconduct Formal Reporting Form and the University's Student Conduct and Discipline Regulations and associated policies and procedures would then apply.
29. Both the reporting and reported parties will be offered support through the process from their own separate designated Case Workers. Different levels of support and ongoing



contact will be provided by the Case Worker depending on whether the reporting/ disclosing party is a student or not.

30. The University's case management protocol for managing instances of alleged interpersonal non-academic misconduct, including sexual misconduct, even if a formal report is not submitted, can be found in Appendix 1.

### **Investigation of Alleged Sexual Misconduct**

31. On receipt of a formal report of alleged sexual misconduct, the Student Conduct Team via the Academic Registrar or nominee will refer it to Major Misconduct Review Group for consideration will refer the report.
32. This Group considers the report including a risk assessment and determines the nature of any additional precautionary action. It will then refer the case for investigation in accordance with the Student Conduct and Discipline Regulations.
33. The investigation will normally be undertaken by a Student Conduct Officer with specific training and experience in the investigation of sexual misconduct.
34. On conclusion of the investigation, if it is decided a Student Discipline Panel is required, a copy of the report of the Student Conduct Officer will be shared with the reported student for comment.
35. Once the reported student has had the opportunity to comment, the report and the student's response will be considered by the Major Misconduct Review Group, which will determine whether there is sufficient evidence to apply appropriate sanctions, whether the case should proceed to a Student Discipline Panel, or whether due to lack of evidence the case will not be progressed. The reported student, and reporting party (where they are a student) will be advised of the decision, in liaison with the student(s) Case Workers as appropriate.
36. All cases of sexual misconduct are considered to represent major misconduct and therefore will normally proceed to a Student Discipline Panel.

### **Student Discipline Panels**

37. On conclusion of an investigation into sexual misconduct where the decision is made that, a case should be referred for consideration by a Student Discipline Panel, the Secretary of the Senate Student Discipline Committee will convene a Student Discipline Panel.
38. All Student Discipline Panels for sexual misconduct will be chaired by members of staff who have received specific training and support to undertake the role, and sit ex-officio as members of the Senate Student Disciplinary Committee.



39. In addition to the Chair, the panel will comprise at least two other members, who have also undertaken specific training.
40. Panels will be conducted in accordance with the Regulations on Non-Academic Misconduct and the associated procedures.
41. On conclusion of the panel hearing and deliberations, an outcome will be agreed by the Panel, which will be referred to the Major Misconduct Review Group before the reported student is notified.
42. The reporting student will be notified of the outcome after the reported party is informed,

### **Appeals and Student Discipline Appeals Panels**

43. Reported students may appeal the outcome of a Student Discipline Panel or sanctions applied, after investigation within five working days of being notified of the outcome. Appeals against the decision of a Student Discipline Panel and any sanctions imposed will be considered in accordance with the Regulations on Non-Academic Misconduct and the associated procedures.
44. Reporting party(s) will be notified whether or not the reported student was found in breach of the Regulations, but not normally the details of the sanctions applied, unless it directly involves them on a continuing basis (i.e. ongoing No-Contact Order) or if the Student is no longer a registered student at the University.
45. If the reported student appeals the outcome of the Panel in accordance with the Regulations on Non-Academic Misconduct, the reporting party(s) will be made aware of this (without being given details) and notified that communication of the final confirmed outcome from the disciplinary process will be delayed as a consequence.
46. At the conclusion of the appeal stage, the reporting party(s) will be notified whether or not the reported student was found in breach of the regulations, but not normally the details of the penalties/sanctions applied, unless it directly involves them on a continuing basis (i.e. ongoing No-Contact Order ) or results in expulsion of the reported student from the University.

### **Complaints**

47. If the final Student Discipline Panel outcome finds that the reported student is not in breach of the University's Regulations, the reporting party(s) may submit a complaint to the University following the process set out in the University' Complaints Procedure.
48. A complaint can be made on the grounds of:
  - a. Procedural irregularity;



- b. Further information that was not available to the Panel or the Appeal Panel during its hearing(s).
49. A complaint cannot be made solely on the grounds that the reporting party(s) disagrees with the outcome of the disciplinary process.
50. The submission of a complaint will normally be deemed by the University as constituting a Stage Two Formal Complaint. A Pro Vice-Chancellor with no prior involvement and appropriate training will be appointed to consider the case, in accordance with the procedures laid out in the University's Complaints Policy.
51. For the avoidance of doubt, a reported student cannot submit a complaint, as they will have had recourse to an internal review stage through the appeals process.



## Appendix 1

### Case Management Protocol

#### Overview

1. This document outlines processes concerning supporting University of Leicester students in relation to interpersonal non-academic misconduct.
2. Interpersonal non-academic misconduct refers to behaviour between at least two individuals that breaches the University's Regulations on Student Conduct and Discipline. Examples of such behaviour include, but are not limited to sexual harassment and sexual violence; hate crimes and hate incidents; bullying; physical assault; harassment.
3. Unacceptable interpersonal behaviours can take place in a number of ways. They may involve physical contact, non-physical contact, for example making inappropriate remarks or repeated and unwanted contact by telephone or text, or may take place online, for example on social media.
4. The protocol underpins the University's Regulations, policies and procedures on Student Conduct and Discipline. Definitions of terms used in this protocol can be found in the glossary.

#### Scope

5. This protocol covers interpersonal non-academic misconduct. Other forms of non-academic misconduct which are not classed as 'interpersonal' (e.g. misconduct involving damage to property) are covered by other relevant policies and procedures.
6. Where a misconduct case involves interpersonal and non-interpersonal elements, precedence will be given to the interpersonal aspects and these will be addressed under this protocol.
7. This protocol does not apply to cases which may be initially dealt with via means of informal resolution or mediation (i.e. cases of low level/ 'civil' disputes).
8. Where possible and applicable, progress through stages of this protocol will depend on the choices of the student(s) involved.

#### Disclosure

9. It is suggested all disclosures of interpersonal non-academic misconduct, wherever they are first made, are channelled through to Student Support Services (SSS). Disclosing to SSS does not trigger any formal reporting process and is not the same as formally reporting an incident to the University. Disclosures can be received by and channelled into SSS via different means including [Report & Support](#), or over the phone (0116 252 2448).
10. If a student makes a disclosure to someone other than a member of staff of the SSS the recipient of the disclosure can forward the disclosure to SSS via any of the mechanisms indicated above.



11. If a disclosure is received from a member of staff, SSS will inform that member of staff when at least two attempts have been made to contact the student, and confirm whether the student has responded to the contact or not.
12. If the student is not in touch by that point, SSS will assess with the original disclosing staff member whether any further action needs to be taken.
13. Further information about how to support a student making a disclosure and refer to SSS, is given in paragraphs 41-44 below. When a disclosure is received by SSS, the disclosing student will be assigned a Case Worker who will offer the student a supportive options conversation.
14. The Case Worker will not be the individual the student made their first disclosure to, in order to safeguard potential legal processes.
15. Other students who have been affected by the disclosed incident will also be offered support and options conversations with a designated Case Worker.

### Options Conversation

16. Options conversations include providing appropriate options to students in relation to both support and reporting, with both internal and external specialist services, as well as personal support networks. Having an options conversation is not the same as formally reporting an incident to the University.
17. Options, provided by the Case Worker are to be chosen by the student.
  - All options are to be presented in an objective manner
  - If particular options are to be suggested in favour of others, this must be clearly stated and explained by the Case Worker
  - Options are occasionally mutually exclusive – for instance, the disclosing student cannot pursue an internal disciplinary case and a police case simultaneously.
  - These details will always be explained in full to the disclosing student
  - Students are able to change their mind in relation to their support options at any point except for when there has been irreversible action taken (e.g. sharing of information).
  - If the disclosing student chooses to report formally to the University, they can expect to be supported further in line with the Reporting party(s)'s' Code.
  - Following the options conversation, the Case Worker will email the student to confirm a summary of the conversation and any actions decided on.

### Communications in the Case Management Process

18. An options conversation will be offered via email ("Email 1") when a disclosure or formal report is made/ received by SSS.
  - The relevant Case Management Protocol document will be shared in Email 1 (to be explained further in the first face-to-face meeting)
  - If there is no reply to Email 1, a follow up email will be sent one-two weeks later ("Email 1 Follow Up")
  - If there is no reply to Email 1 Follow Up, no more contact will be made by the Case Worker but they will still be available to the student for support if they wish to make contact at a later date



19. If an options conversation takes place, a follow up email (“Email 2”) will be sent on the same day of that conversation (details outlined in section above):
  - If there is no reply from the student to Email 2, even if there is no further action to be taken, the Case Worker will check in on the student two weeks later (“Email 2 Follow Up”) to ensure no further support is needed
  - If there is no reply to Email 2 or Email 2 Follow Up, no more contact will be made by the Case Worker but they will still be available to the student for support if they wish to make contact at a later date
20. If the disclosing student wishes the University to investigate the reported student under the Student Conduct and Discipline Regulations the content, regularity and sender of the communications will be agreed upon with the disclosing/ reporting party(s) at the beginning of the reporting process (outlined further below).
21. Communications between the reported student with their designated Case Worker will also be mutually agreed at the beginning of the disciplinary process

### **Expectations and Outcomes**

22. During the case management process, and if the disclosing student wishes to formally report the incident to the University, the Case Worker will regularly discuss the student’s expectations with regards to the management of the case (and disciplinary process). This will involve regularly re-visiting the student’s options, initially discussed in the options conversation. Additionally, possible outcomes of various support and reporting routes will be discussed and outlined where appropriate (e.g. at the beginning of a formal disciplinary process).

### **Risk Assessment and Precautionary Action**

23. Throughout the case management process (including where any disciplinary action is taken), the initial and ongoing risks associated with a case will be regularly assessed. A risk assessment template will be used in these cases.
24. This assessment may take place with the Case Worker and relevant individuals (from the University Cause for Concern Group) and where this occurs, the student(s) involved will be made aware. This risk will be assessed in relation to the nature of the incident, the impact on the health, safety and wellbeing of individuals involved, and organisational risk.
25. Precautionary measures refer to action recommended by the Cause for Concern Group for the University to take to help ensure the safety and wellbeing of all of those involved in the case. Precautionary measures/ action are not penalties and will apply equally, where relevant, to all parties involved.
26. Precautionary measures are normally authorised by the Academic Registrar on the recommendation of the Cause for Concern Group. The Major Misconduct Review Group may also choose to amend, augment or withdraw any precautionary measures which are in place.
27. Precautionary action may include No-Contact Orders (NCOs) between disclosing/ reporting and reported students, and possible restrictions on access to particular shared spaces.



Students may occasionally also be moved into or offered alternative accommodation provided by the University.

28. Action will only be taken without the consent of the disclosing/ reporting party(s) if the University perceives there to be a significant, imminent risk to individuals. In these instances, the case may be escalated to external agencies, for example to the police.

### From Disclosure to Formal Report (Internal Disciplinary Case)

29. Diagram 1 shows how an initial disclosure can lead to a formal report to the University, in relation to the case management (disclosure and support) process.
30. This transition will only occur if:
- the disclosing/ reporting party(s) wants to proceed with this option and has been adequately informed of the process and all other support and reporting options
  - the alleged/ reported individual is also a University of Leicester student **and**
  - there is no ongoing police case in relation to the same allegation of misconduct
31. In Diagram 1, options are sometimes mutually exclusive and the arrows demonstrate possible progress and outcomes in individual cases.
32. When a formal report is submitted by the disclosing (who then becomes the “reporting”) student, the reported student will then be offered support via their own designated Case Worker who will not have had any prior contact with the reporting party(s), or prior involvement with the case, as outlined above and below.

### Internal Disciplinary Case Management

33. All investigations into alleged misconduct are carried out in accordance with the Policy on Student Conduct and Discipline.
34. Diagram 2 below outlines the typical process of an internal disciplinary case. In this diagram, options are sometimes mutually exclusive and the arrows demonstrate possible progress and outcomes in individual cases.
35. Further information for each step is explained in the bullet points below.
- Reports, within the scope of this protocol, can only be received by the Student Conduct Team (the team responsible to processing and progressing disciplinary cases) after the reporting party(s) has sought support from SSS and has had an options conversation.
  - When a report is received, the reporting party(s) will receive a confirmation email from the Student Conduct Team (copying in the Case Worker) within 2 working days which will:
    - Thank the reporting party(s) for their report
    - Signpost to support if needed
    - Propose an outline of next steps and possible time scales involved – including agreeing how often the reporting party(s) would like to be contacted by the Student Conduct Team or their Case Worker regarding their case (e.g. monthly, or only when there are updates) as agreed between the student and the caseworker at the start of the process



- As outlined above, precautionary action is also assessed during the disciplinary case process. If precautionary measures need to be put in place, these will be for the safety and wellbeing of all of those involved in the report. Precautionary measures/ action are not penalties nor a presumption that regulations have been broken and will apply equally, where relevant, to all parties involved. The decision to implement precautionary action is normally may be based on a risk assessment made by the Cause for Concern Group and authorised by the Academic Registrar.
- When the reported student is made aware of a report, either as a result of precautionary action or at a later stage in the process, they will be offered their own designated Case Worker (a different worker to that of the reporting party(s)) from SSS for support.
- Further information may need to be gathered before an outcome is selected in the assessment stage (step 2 in the diagram below).
- Depending on the outcome(s) selected, the appropriate student(s) will be informed and given the justification of the decision made, where data protection allows.
- The reported student will be given 10 working days to appeal the outcome of the disciplinary process after they have been informed.
- The reporting party(s), who will be told the outcome of the process after the appeal process has been concluded, will be given the opportunity to reassess their options with their Case Worker and other appropriate members of staff throughout and after the disciplinary process, as stated in the Reporting party(s)' Code below.
- The University may also suspend consideration of the case on the basis of other action – for instance, if a decision from the Criminal Justice Process is to be made.

### Reporting party(s)'s' Code

36. Through the case management (including internal disciplinary) process, reporting party(s)s can expect to:
- Be kept informed about the progress of their case, where relevant and appropriate, by the Student Conduct Team or their Case Worker – frequency of communications and by whom to be agreed upon after the initial receipt of the report.
  - Hear limited details of what stage the reported student is at in the process and whether any precautionary measures have been put in place
  - Apply for extra help when giving evidence as part of the investigation – in relation to disabilities/ health/ mental health conditions – to be assessed on a case-by-case basis.
  - Be told when there are changes to any previously stated action taken against the reported student.
  - Receive information and referrals/ signposting to appropriate support – including a named Case Worker from SSS.
  - Be able to reassess their options in relation to their case, including ceasing their role in and commitment to disciplinary action at any point. (an options conversation with the Case Worker and other appropriate members of staff can be requested and received at any point in the process).
  - Receive confidentiality where appropriate and possible to allow an effective investigation – to be specified in each case.



- Have the ability to request a review at a specific part of the disciplinary process, or the process as a whole – to be supported by the Case Worker, or an independent member of SSS staff where appropriate

### Reported Students' Code

37. Through the case management (including internal disciplinary) process, reported students can expect to:
- Be treated reasonably and fairly.
  - Be able to speak with an impartial member of staff from SSS, and be allocated a Case Worker, throughout their case and beyond, including access to specialist support on ongoing communications.
  - Be informed of the allegation(s) against them and given a fair opportunity to respond.
  - Be kept informed about any progress on their case by the Student Conduct Team or Investigators.
  - Be assured that decisions are taken by people who have had no previous involvement with their case and no reasonable perception of bias.
  - Be given clear reasons for decisions reached, including any penalties imposed.
  - Be given five working days' notice of any formal hearing.
  - Be allowed ten working days to appeal the panel outcome and any sanctions/penalties.
  - Be provided with clear deadlines on when they are expected to make submissions, such as statements responding to the allegations or appeals.
  - Be advised on appropriate distinctions drawn between criminal matters and internal disciplinary procedures.

### After or Aside from the Disciplinary Process

38. If the disclosing student does not wish submit a formal report to the University or they have decided to pursue a process outside the University (i.e. reporting to the police), or the internal disciplinary process has concluded, support is still available for all parties involved through their designated Case Worker.
39. This support could relate to any other issue that may impact on students' academic study and will continue to be available until the student leaves the University.
40. Occasionally, based on student preference, and staff availability and expertise, students may be referred to other appropriate Case Workers from SSS. In these situations, the student will be asked whether they are happy for their information to be shared between Case Workers.
41. After the initial emails have been sent at the beginning of the case management process and, if relevant, communication as part of the disciplinary process has ceased, it will be the responsibility of the student receiving support to make contact with their Case Worker when support is needed, unless it is otherwise agreed between the student and Case Worker. Where external agencies are also involved, the Case Worker will still be the student's main point of contact within the University.



### University and Students' Union Staff Guidance

42. If you are a staff member supporting a student who has made a disclosure, please refer to our disclosure guidance and training. Please encourage the student to disclose to SSS (including via [Report & Support](#))) to receive specialist, ongoing, impartial support, or do so on their behalf with their consent. You can support them in making their disclosure in order to avoid them having to repeat details to multiple individuals. If you are making contact on the student's behalf, sharing certain details with SSS will be required to act in the student's best interests. This will be in accordance with the appropriate policies e.g. Safeguarding Policy
43. When SSS receives your disclosure, we will make at least two attempts to get in touch with the student and SSS will let you know if the student has reciprocated the communication or not. If the student is not in touch by that point, SSS and the Cause for Concern Group will assess whether any further action needs to be taken.
44. The process taken when a student disclosure is received by SSS is outlined above. As part of the options conversation, the students involved will be asked whether they want their academic department (and/ or other departments they are connected to in the University e.g. Sports, Halls, Students' Union) to be made aware of their situation. If they consent for the information to be shared, their Case Worker will ensure that appropriate details are shared, or support the student to do this.
45. If the student does not want to be known to SSS, they can disclose via Report & Support anonymously and/ or you can suggest they explore their other support options here: <https://reportandsupport.le.ac.uk/support> and here: [www.le.ac.uk/need-help](http://www.le.ac.uk/need-help). If you have any questions or concerns regarding student disclosures, you can discuss anonymously with SSS to begin with using any of the methods detailed above.