

Sexual Misconduct Procedure

Effective from October 2024

This procedure gives specific information in relation to allegations of sexual misconduct, including harassment, for both the reporter and the respondent. It is an appendage to the University Disciplinary Policy, and is compliant with employment legislation and the Acas Code of Practice.

Newcastle University Code of Practice for Freedom of Speech sets out the procedures to be followed by staff and students in connection with the organisation of meetings and events, along with the conduct required during these meetings and events. Nothing in the Sexual Misconduct procedure should affect free speech or academic freedom. Nothing in this procedure should be read as undermining or conflicting with the free speech code of practice. In case of any conflict, the free speech code of practice will take precedence.

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1. Summary

The University adopts a stance of zero-tolerance to founded allegations of sexual misconduct against any student, colleague, or any other individual conducting business for or on behalf of the University. By this we mean we will be proactive in eradicating the behaviour – in all its forms. Zero tolerance also means there will be action and consequences that are appropriate and proportionate considering the respondents behaviour and the impact of their actions.

It is important to note that zero tolerance does not mean we respond in the same way to every incident, for example, through automatic dismissal.

Any report of sexual misconduct will be treated seriously; anyone alleged to have behaved unacceptably will be subject to investigation in line with the sexual misconduct procedure.

If you are the subject of disciplinary proceedings as a result of an accusation of sexual misconduct, you should ensure that you read this procedure and understand it fully.

If you are reporting an allegation of misconduct against another colleague, we recommend you read this procedure which will outline what you can expect to happen once you make your report.

The purpose of this document is:

- To reinforce our expectations around the unacceptability of sexual misconduct.
- To provide you with clarity and confidence around the processes in place to deal with sexual misconduct when it occurs.
- To outline how the University will respond to reports of incidents of sexual misconduct and what support is in place for colleagues.
- To show how reports of this nature will be specifically investigated and managed under the Disciplinary Policy.

This procedure may apply in the following circumstances:

1. Where there is an allegation made by a colleague, relating to another colleague (or several other colleagues), that may wholly or partly relate to allegations of sexual misconduct.
2. Where there is a student complaint made against a colleague that wholly or partly relates to allegations of sexual misconduct.
3. Where there is a complaint made, or concern raised by a colleague, relating to a student that wholly or partly relates to allegations of sexual misconduct.

For allegations made by a student against another student/students please refer directly to the student disciplinary procedures you can find [here](#).

2. Definitions

Our definition includes sexual misconduct through any medium, including, for example, online.

The University understands the definition of **Sexual Misconduct** to be: unwanted or attempted unwanted conduct of a sexual nature which has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for a colleague or student.

Examples of Sexual Misconduct may involve, but is not exclusive to:

- Sexual or degrading comments, jokes, or 'banter'
- Unwelcomed touching gestures i.e. an arm around a waist, a kiss hello/goodbye
- Intrusive questions about a colleague, or mention in detail of their own, private sex life
- Spreading sexual rumours about someone
- Physical sexual advances
- Unwanted staring
- Sharing intimate or emotional feelings that is unwanted
- Unwelcomed contact including (but not limited to requests for personal information, dates, unwanted contact at the end of a consensual relationship. This contact may be either in person, telephone, online, Teams, or social media
- Stalking
- Intimidation, or promising resources or benefits in return for sexual favours
- Distributing private and personal explicit material of a colleague without their consent
- Sexual assault
- Rape

3. Reporting allegations

Colleagues can report allegations of sexual misconduct to their Line Manager, if appropriate, or to their local [People Services](#) colleagues. Reports can be made by people directly impacted or others who observe or know of sexual misconduct. Allegations reported will be **formally** acted upon and will not be restricted by a time limitation between the incident and reporting the issue. If a colleague wishes to report anonymously, or seek advice and/or support from the following sources, this will not trigger formal action:

- **Anonymous Reporting:** <https://forms.office.com/r/uNQne49sfK>
Anonymous reports by colleagues can be submitted here. All reports received via this route are held confidentially by University advisors. As this form is anonymous, we will not be able to offer direct support or trigger any formal reporting mechanisms.
- [ED & I Colleague Networks](#) – we have a number of colleague networks run by colleagues for colleagues. They can offer peer support and mentoring on matters of interest and concern.
- [Just Ask](#) – Just Ask is a service offering confidential support and direction to University colleagues who are feeling stressed at work. It is operated by a team of volunteers who can provide a listening ear and information to their colleagues on a range of issues.

Employee Assistance Programme:

<https://newcastle.sharepoint.com/hub/orghas/Pages/Employee-Assistance-Programme.aspx> - Our confidential 24 hour helpline that provides support through any of life's issues or problems.

4. What happens next?

4.1 The investigation

A People Services Business Partner/Advisor will have an initial meeting with the colleague who is reporting the allegation. For students raising a complaint against a colleague, Student Progress Service will have the initial meeting with the student accompanied by a colleague from People Services. Within this meeting, the reporting colleague/student has the following options available to them (more than one option can be utilised simultaneously):

- Request the University formally investigate the incident. Informal resolution of allegations of this nature is not appropriate and will not be recommended.
- Report the incident to the Police.
- Initiate support via the Employee Assistance Programme (for colleagues) or external agencies.
- Make no report of the incident at this time.

Any formal investigation should begin **promptly** after the alleged incident has taken place, be confidential and be carried out by someone who is independent from the rest of the disciplinary process.

In cases of this nature, we would encourage the reporting colleague/student to attend an investigatory meeting with a colleague or trade union representative. The University would offer support through the Employee Assistance Programme (for colleagues) and share details of external support partners specialising in cases of this nature to the individual. A reporting colleague/student can choose not to attend this meeting, instead submitting their statement for consideration. The reporting colleague/student may decide they want the investigation to continue without their personal involvement.

To support the colleague/student reporter, neutral precautionary measures may be implemented (including, but not limited to, a no contact instruction for both parties and boundaries within University academic units or service areas).

During the investigation, the Investigating Manager and People Services Business Partner/Advisor will assess the risk, and this may result in the colleague responder being suspended. Please refer to the disciplinary policy and procedure for further information on suspension.

If a case is being considered under the criminal process, the University reserves the right to decide whether to proceed with the disciplinary process or suspend its disciplinary investigation until any criminal investigation or judicial proceedings has concluded.

When investigating reports of sexual misconduct, the investigating manager will decide whether, 'on the balance of probabilities', University policies have been breached.

Before the conclusion of the investigation, the investigating manager will offer to meet with the reporting colleague/student again to update them on the findings. The reporting colleague/student will have an opportunity to add any further comments to the investigation before the Investigating Manager, along with the People Services Business Partner/Advisor, decide if there is a disciplinary case to answer. If there is a disciplinary case to answer, the findings should be clearly detailed in an investigation report, which can be shared with the reporting colleague/student. An independent Hearing Manager will then be appointed, and the responding colleague, will be invited to a disciplinary hearing.

Due to the complex nature of the allegation, the investigating manager and disciplinary hearing manager should have good knowledge of this procedure and preferably experienced in dealing with similar cases.

Where this is not possible, appropriate training will be given. Any conflicts of interest between the investigating/hearing manager and the complainant/respondent should be disclosed to People Services as soon as reasonably practicable and may result in the investigating/hearing manager being withdrawn and replaced.

4.2 Disciplinary hearing

The reporting colleague/student will be given the option to attend the disciplinary hearing and can be accompanied by a colleague or trade union rep. If the reporting colleague/student does attend the hearing, they will have the opportunity to ask questions to the responding colleague.

The reporting colleague/student may call witnesses to the disciplinary hearing who have already been involved in the investigation. The hearing is not an opportunity to call new witnesses. The reporting colleague/student must confirm this to the hearing manager in advance of the hearing and confirm they are available to attend. It is the colleague's responsibility to arrange for their witnesses to be present.

Due to confidentiality, the reporting colleague/student will be asked to leave the hearing before any disciplinary action is confirmed to the responding colleague and sanctions will not be shared with the reporting person.

If the reporting colleague/student does not wish to attend, the disciplinary hearing manager will offer to discuss the findings of the hearing with them in a hearing adjournment before a final decision is made on any disciplinary action.

5. Disciplinary Action

In deciding the appropriate disciplinary action, the hearing manager should take into account the severity of harm and impact on the reporter and HEI community as well as the responding colleague's disciplinary record, general record, and explanation of their actions.

If no disciplinary action is to be taken, the responding colleague should be informed.

If the Hearing Manager decides that disciplinary action is justified they must decide what form the disciplinary should take, inform the colleague and confirm their decision in writing setting out the details of the misconduct, the behaviour that is expected, the period for which the warning remains live; together with the colleague's right to appeal.

The University disciplinary policy outlines the following actions which will be based on the judged severity of the act committed by the colleague accused:

- First written warning
- Second written warning
- Final written warning
- Dismissal

In addition to the above formal warnings, or in isolation if a formal warning is not issued, other actions may be required as determined by the hearing manager. This may include, but not limited to, training to change behaviour, mediation to rebuild relationships at work or an apology to the reporting party. (where appropriate in the circumstances and supported by a Line Manager or People Services representative).

Appeals

The colleague responder has the right to appeal any formal action taken as a result of the disciplinary process.

Colleagues/Students reporting allegations of misconduct do not have the right to appeal against the investigation/disciplinary outcome. However, if new information comes to light, a new investigation may be required under this procedure.

Information or Claims Without Substance

While claims without substance are rare, if any person is found to have knowingly provided false information, knowingly made allegations of sexual harassment without any substantive merit or for vexatious or malicious reasons, they may be subject to separate disciplinary action.

6. Information sharing

The strictest of confidentiality will always be maintained.

Where information is shared between Student Progress Service and People Services, this will be in the strictest of confidence and will be limited to the minimum information required to conduct a fair and thorough investigation. Where it is possible, there may be some scope for joint interview of witnesses, as agreed by the two services and where this is appropriate to the case and does not pose issues around confidentiality. Witnesses and complainants would need to consent to this.

Where more than one party comes forward to report similar allegations against the responding colleague, all reporting colleagues/students will be informed that others are involved. However, names must not be disclosed unless permission is given by the reporting person, and the strictest of confidentiality must be maintained.

Due to reasons of confidentiality, it is unlikely that any formal action would be shared with the party making the complaint. Therefore, the expectations of the reporting colleague/student should be managed in terms of the information relating to the outcome that will be shared with them. The outcome shared will be limited to whether the complaint is upheld or not upheld.

All personal data relating to any party involved in any investigation, will be stored, handled and processed in accordance with the General Data Protection Regulations.

7. Personal Relationships at Work

All colleagues, postgraduate teaching assistants, and student mentors are in a position of trust and it is important that they conduct themselves with sound professional judgement, impartiality, and integrity.

We want to limit circumstances where a position of power may be abused or perceived to be abused, and protect both students and colleagues from allegations of actual or perceived conflicts of interest.

It is therefore important that all colleagues read and comply with the University Personal Relationship at Work policy.

8. Support

Colleagues should be aware of the support and services within the University to protect their wellbeing. It may be appropriate to signpost colleagues to appropriate services and further information can be found on the [Wellbeing pages](#).

If you have witnessed something or have made a disclosure that you find upsetting in any way, it is recommended that you speak to your own Manager in confidence, or a member of People Services. You may also wish to consider self-referral to the Employee Assistance Programme which offers a comprehensive and varied package of support.

9. Associated documents and further guidance

University Policies

- [Disciplinary Policy](#)
- [Colleague Social Media Guidance](#)
- [Personal Relationships at Work Policy](#)
- [Declaration Form](#)

Office for Students

- [Statement of Expectations to prevent and address harassment and sexual misconduct](#)

Definitions of Sexual Misconduct

- [Section 26 \(2\) Equality Act 2010.](#)

Examples of Sexual Misconduct in the Workplace

- [Equality & Human Rights Commission, Sexual Harassment and the Law: Guidance for Employers 2017](#)
- [Criminal Justice & Courts Act 2015](#)
- [Sexual Offences Act 2003](#)

Other external agencies that provide support include:

Rape Crisis Tyneside and Northumberland is a charity which provides free confidential support, information and counselling to women who have experienced sexual violence. They are completely independent of the criminal justice system including the police. **Tel:** 0191 222 0272

REACH: 24-hour crisis intervention and support for anyone who has experienced a sexual offence, regardless of when the offence occurred or whether the incident was reported to the police or not. Tel: 0333 344 8283.

Survivors UK: support and help for male survivors of sexual violence including counselling and therapy appointments as well as online chat. Tel: 020 3598 3898

Victim Support is an independent charity, who work to support people affected by crime or traumatic events. They provide help to ensure people feel safer and find strength to move beyond crime. Their support is free, confidential and can be tailored to your needs. **Tel:** 0808 168 9111

This policy will be reviewed on an annual basis as part of our ongoing commitment to continuously improve our prevention efforts, create an environment that encourages reporting and respecting and supporting colleagues and students who may be impacted by sexual misconduct.

Document Version Control

Owner	People Relations and Policy Team	
Date	Status	Comment
1 December 2021	Approved	New procedure launched through consultation with TU's and approval at PMG
1 October 2023	Approved	Enhanced investigation and hearing procedure enabling the complainant access to investigation report and attendance at hearing
August 2024	Updated	Following OfS Guidance on Preventing Sexual Harassment, updated sexual misconduct definition and examples and EHRC guidance currently under consultation as part of the Worker Protection Act 2024.