

Changing the culture: tackling staff-to-student sexual misconduct

Practical guide



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Executive summary

In recent years, we have seen a sharpened focus on sexual misconduct and harassment both here in the UK and around the globe.

In the UK, our universities have made a considerable effort to address harassment occurring between students. However, there is still a long way to go in eliminating harassment by staff towards students.

In February 2022, we published a [Strategic guide](#) with high-level recommendations for university leaders and governing bodies to address staff-to-student sexual misconduct, shift institutional culture and improve the experience for all students and staff.

We identified four thematic areas where action is needed:

1. **Culture** that addresses sexual misconduct.
2. **Policies and procedures** that are fit for purpose.
3. **Practice** that delivers change.
4. **Data** that informs changes to culture, policy and practice.

An effective response requires a joined-up approach and action across all themes and one which **prioritises prevention**.

About this guide

Universities are at different stages in addressing staff-to-student sexual misconduct and effective practice remains both limited and evolving. This guide is for practitioners and university staff working in this area. It offers tangible support with suggestions for strategies and interventions to help universities in implementing the recommendations and delivering an operational response along with information on why this matters.

How we have written this guide

The recommendations and actions in this guide are all based on a wide range of evidence.

We have removed references which relate to specific actions to make this guide easier to navigate for practitioners. However, we have included a full bibliography of all the sources we've used. You can also find more about the evidence and research in our

Evidence review.

How universities should use this guidance

Institutional autonomy and the diversity of universities mean that **implementation of the guidance will be up to universities**, who are working in partnership with the university community, including governing bodies and students' unions, and balancing institutional autonomy and diversity with the requirements of changing the culture across the sector. This guidance outlines a baseline that all institutions should strive towards as a first step. It also supports English universities in responding to the Office for Students [statement of expectations](#) relating to addressing harassment.

Who is this guide for?

The **Practical guide** should be read in conjunction with the [Strategic guide](#). It is targeted at professional services staff including student services, people services/human resources, student complaints, discipline and conduct, security, and residential teams, and other operational staff; working with their students and student leaders, students' and staff unions, victim-survivors, and specialist external organisations.

Supporting resources

A separate **Evidence review** provides evidence, information on the nature, and scope of staff-to-student sexual misconduct and examples from universities supporting the assertions and recommendations included in the Practical guide. This draws on our desk research but was expanded and further developed by Dr Fiona Vera-Gray, Reader, London Metropolitan University.

A **Legal briefing** by lawyers Eversheds Sutherland sets out the legal and regulatory framework, with practical examples to illustrate implementation. This should be read alongside the rest of this guide, and is not intended to be a substitute for taking appropriate legal advice

Changing the culture: sharing personal data in harassment cases.
A Strategic guide for universities

Changing the culture: sharing personal data in harassment cases.
A Practical guide for universities

Who is most at risk from this form of harassment?

Sexual misconduct is a complex phenomenon arising from power imbalances and inequalities in society, reflected in rather than challenged by the organisational culture of many universities.

Gender, subject of study and level of study are all known risk factors when it comes to staff-student sexual misconduct. Women, LGBTQ+ students and postgraduate students are more likely to experience sexual misconduct by staff, especially if they belong to more than one of these groups. The needs of international students should also be addressed specifically due to the challenges they may face in interrupting their studies and the impact on funding and visas. Staff-to-student sexual misconduct is also significantly under-reported and **breaking down barriers to reporting** remains one of the most significant challenges to address in eliminating this form of harassment.

How do we tackle it?

There is not one solution

As with any form of harassment, no one action will prevent staff-to-student sexual misconduct; action will be required at an individual, institutional, community and societal level. This should include a specific emphasis on prevention, listening to the voices, needs and experiences of victim-survivors, challenging inappropriate behaviour and provision of support.

We must change institutional cultures

Tackling sexual misconduct in universities means changing institutional culture.

This requires an evidence-based approach and therefore the inter-relationships between data, practice, policy and culture cannot be overstated.

We need more evidence on what works

More evidence is needed on what works to support implementation. This guidance should therefore be seen as a '**living document**', recognising that we need to learn from one another, including victim-survivors, on how best to address staff-to-student sexual misconduct. Working in partnership across the sector, as well as drawing on support from specialist organisations to determine effective practice will be critical.

To support this, over the next 12–18 months, we will work with the sector to understand how the guidance is being used and share examples of effective initiatives and lessons learned.

Thank you and acknowledgements

As a sector, we are hugely indebted to those who have shared their experience and advice and who have lobbied to bring about change. We are grateful to Professor Cara Aitchison, Vice-Chancellor at Cardiff Metropolitan University, and the advisory group for developing this guidance and to many others who have provided feedback and editorial comments from within and outside higher education. Particular thanks are due to colleagues at both the National Union of Students and The 1752 Group and most of all to the victim-survivors who contributed to their study to tackle this pernicious problem. A list of acknowledgements is available in [Annexe A](#).

The suggestions in this guidance draw on the feedback from the members of the advisory group and from research, reports and articles from academics, professional staff and those working in specialist organisations. Relevant texts are set out in [Annexe C](#).

Checklist for supporting actions

This section sets out our recommendations and supporting actions to tackle staff-to-student sexual misconduct.

Recommendation 1: Culture

Define and embed an inclusive and positive culture to ensure an environment that prevents and does not enable or condone staff-to-student sexual misconduct. Institutions, working with all members of the university community, including collaborative providers, can shape expectations and influence behaviours of those in the community to deliver a safe, positive and inclusive environment.

Supporting actions

- 1.1** Senior leaders and governing bodies acknowledge and demonstrate visible ownership and accountability for addressing staff-to-student sexual misconduct.
- 1.2** Identify and actively challenge underlying beliefs and normalised behaviours that create a conducive context for staff-to-student sexual misconduct.
- 1.3** Set clear norms and requirements of respectful behaviour and promote healthy behaviours between staff and students.
- 1.4** Communicate that staff-to-student sexual misconduct will not be tolerated and action will be taken when policies and/or codes of behaviour are breached.
- 1.5** Create a safe, positive and healthy research and innovation environment.
- 1.6** Measure and review changes in institutional culture.

Recommendation 2: Policies and procedures

Recommendation 2a

Universities should develop a clear and robust university-wide policy that addresses staff-to-student sexual misconduct, supported by procedures such as those dealing with complaints and discipline. How this policy is operationalised will vary across universities and could be addressed within a university's sexual harassment and misconduct policy, a code of conduct for university staff, and/or captured in a separate policy to manage staff-student relationships, conflicts of interest and power imbalances, along with a commitment in student charters or partnership agreements.

Recommendation 2b

While we recognise the autonomy of institutions, given the power differentials and professional relationship between staff and students, we recommend that close, personal relationships between staff and students are strongly discouraged by universities. This is especially important where there is a direct professional responsibility.

Where relationships do occur, the staff member should be removed from all responsibilities that may entail a perceived or actual conflict of interest and/or abuse of power. With the staff member's consent, the student should also be advised of the disclosure, of any relevant changes being made and why these are necessary.

Universities should, where appropriate, and in accordance with data protection and human rights legislation, require staff members to declare any close, personal relationships they have with students, for whom they have a direct responsibility. A failure to declare can be treated as a disciplinary matter.

Such policies should be communicated clearly and regularly across the university community. Staff-to-student sexual misconduct should also be defined within the university's social media policies.

Recommendation 2c

Policies and procedures must be regularly reviewed to make sure they are used and followed appropriately and are up to date. This is critical so that students and staff have confidence in their institution to act in a way that is fair and transparent. Regularly reviewing policies will also make sure new challenges are identified and addressed.

Supporting actions

- 2.1** Develop policies and procedures in partnership with students and staff, with advice sought from those with expertise including specialist organisations.
- 2.2** Embed policies and procedures within a whole-institution approach overseen by a member of the senior leadership team and a designated governor or governing body.
- 2.3** Align policies and procedures with the institutional culture and values, and legal and regulatory framework.
- 2.4** Communicate policies and procedures regularly to all staff and students, including to prospective students.
- 2.5** Define requirements of professional behaviours between staff and students, and illustrate definitions with examples. This should include:
 - behaviour that breaches professional standards or crosses boundaries between professional and personal relationships
 - use of electronic and social media
 - communication of a personal nature
- 2.6** Acknowledge the power imbalance between staff and students and the problems with sexual consent, and consent in general, within relationships of uneven power.
- 2.7** Acknowledge the significance and impact of intersectionality on power relations between staff and students.
- 2.8** Set out fair treatment of students and staff.
- 2.9** Document the pathway for disclosing and reporting incidents.
- 2.10** Clarify within policies and procedures the process and timescale which the university will respond to disclosures, reports and complaints.
- 2.11** Recognise the sensitivities, and difficulties, for students speaking out about sexual misconduct against a member of staff.
- 2.12** Signpost all reporting and responding parties to internal and external support.
- 2.13** Make provision within policies and procedures to respond to reports from graduates and alumni.
- 2.14** Operationalise and apply policies and procedures consistently.
- 2.15** Undertake testing and regular reviews and evaluations to support a cycle of continuous improvement.

Recommendation 3: Practice

Recommendation 3a

Universities should develop a university-wide strategic response to staff-to-student sexual misconduct. This should include a robust prevention strategy, together with a fair, clear and accessible approach for responding to allegations, disclosures, reports and complaints. Taking account of victim-survivor voices and collaborating with students, staff, other universities and external organisations will enhance institutional responses.

Recommendation 3b

Universities should not use non-disclosure agreements (NDAs) or confidentiality clauses in settlement agreements in cases of sexual misconduct or sexual harassment.

Recommendation 3c

Universities should regularly monitor, evaluate and review practice, and share lessons learned across the sector to support a cycle of continuous improvement.

Supporting actions

3.1 Develop a prevention strategy that includes:

- the role of governance and leadership, with a focus on changing institutional culture (see [Recommendation 1](#))
- assessing the risk to other students and staff when a report is made
- staff and student training to raise awareness of staff-to-student sexual misconduct
- defining clear behavioural requirements for all members of the university, including clear guidelines on close personal relationships between staff and students

3.2 Engage with staff, students and collaborative partners to explore how to respond effectively to incidents and develop interventions.

3.3 Develop a robust response strategy that includes:

- accessible reporting channels and mechanisms
- communication of reporting channels
- removing barriers to reporting
- enabling anonymous reporting (where appropriate)
- enabling and supporting whistleblowing
- establishing a single point of contact

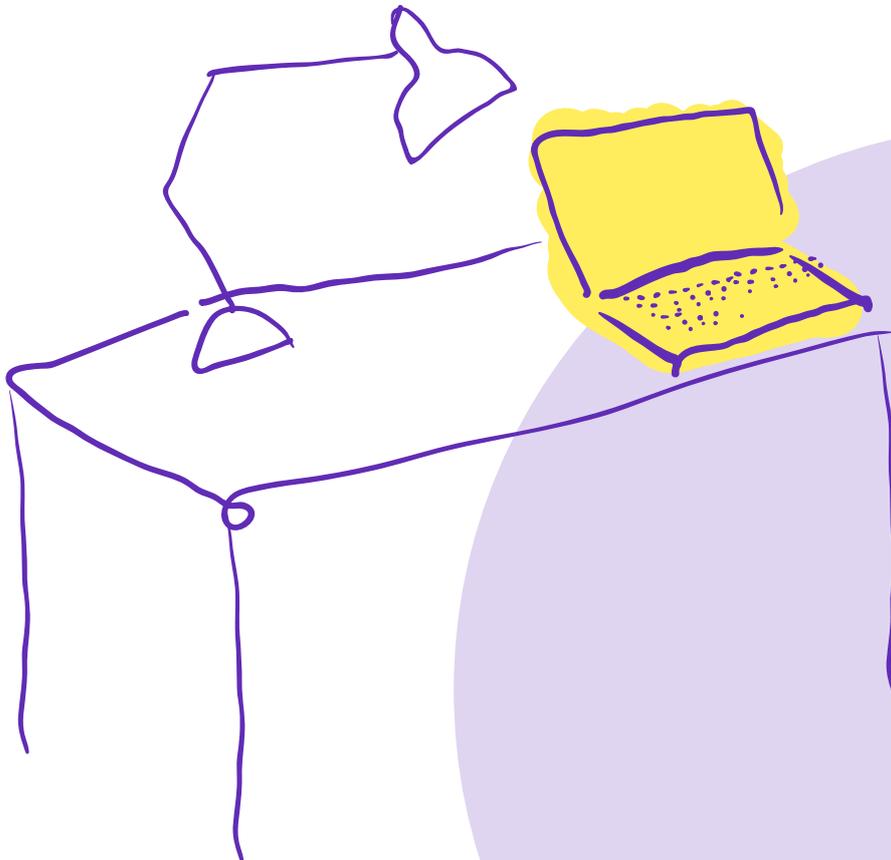
3.4 Develop a process for responding to disclosures, reports and complaints that includes:

- consulting with students and victim-survivors in the development of complaints and disciplinary procedures
- managing the interface between student complaints procedures and staff disciplinary procedures, and ensuring alignment
- risk assessment and management, including managing risk to other staff and students on receipt of a report, disclosure or complaint
- case management
- support for all those involved across all processes
- communication about next steps and timelines
- investigations
- disciplinary procedures
- the decision-making process
- remedies to students for partial/fully upheld complaints
- closing complaints
- fitness to practise
- appeals
- cases which lack independent witnesses
- informing the reporting party of other complaints/allegations and/or reports that refer to the same responding party
- not using NDAs or confidentiality clauses in settlement agreements
- sharing information and disclosure of outcomes in relation to the complaints and disciplinary process in accordance with data protection legislation

- responding to historic incidents
- cases where the responding party resigns before an investigation is started or finished and/or the process, including any disciplinary process, is completed
- responding to the potential movement of responding parties between universities
- malicious or vexatious complaints

3.5 Monitor, review and evaluate practices and responses to:

- ensure a cycle of continuous improvement including feedback from those accessing the reporting and complaints processes
- share practise and learning internally and across the sector to learn and improve from others



Recommendation 4: Data

Universities should adopt a systematic approach to collecting, retaining and reporting data on incidents of staff-to-student sexual misconduct, including:

- a) numbers of actual reports/complaints, including those resolved informally and anonymous reports, and
- b) anonymised data on reports/complaints and action taken to respond to emerging trends.

This will support universities to identify systemic problems and to understand both the nature and scale of staff-to-student sexual misconduct, as well as the effectiveness of institutional support, policies and practices in responding to these.

Supporting actions

- 4.1** Establish a centralised approach to collecting, recording and reporting data on staff-to-student sexual misconduct, including incidents that are resolved informally.
- 4.2** Adopt and use appropriate methods for gathering and analysing data.
- 4.3** Recognise the uses and limitations of anonymous reports.
- 4.4** Develop reports for management on the prevalence of staff-to-student sexual misconduct, including trend analysis and periodic survey data.
- 4.5** Employ appropriate methods to maximise stakeholder engagement.
- 4.6** Improve accuracy and consistency in data collection and ensure an effective process for updating and deleting data.
- 4.7** Capture data on disclosures in addition to formal complaints.
- 4.8** Develop an action plan to respond to and manage issues arising from trends or anomalies identified through this data collection.
- 4.9** Update privacy policies to reflect how anonymised data will be used.

Introduction

Purpose

This guidance:

Provides supporting actions

This guide provides actions to support the delivery of high-level **recommendations** to address staff-to-student¹ sexual misconduct, set out in our [Strategic guide](#). It is based on developing positive cultures within universities and with institutional/collaborative partners, underpinned by robust policies and procedures.

Advocates that action should sit within a whole-institution approach

This is alongside an institutional commitment to address the drivers of unacceptable behaviours and institutional inequalities and to promote an inclusive and safe environment and culture for all students and staff.

This promotes an inclusive and safe environment and culture for all students and staff.

Is an extension of our Changing the culture framework

Our [Changing the culture framework](#) focuses specifically on harassment occurring between students. This guidance has been adapted to take account of **additional considerations** required when addressing staff-to-student sexual misconduct including:

- the complexity of unequal power relationships that exist between staff and students and challenges around sexual consent, and consent generally, within relationships of uneven power (for further information see [Annexe E](#))
- the impact of different modes, structures and environments for of teaching, learning and research including online learning, specialist teaching and one-to-one tuition, where students can be more vulnerable to the power imbalance between staff and students
- potential blurring of boundaries between staff and students

¹ Staff includes any person that is engaged (not necessarily employed) by the university who interacts with students. This includes academic, professional contracted and temporary staff.

- equitable and fair treatment of both students and staff
- the impact of intersectionality, particularly in relation to LGBTQ+ students
- sharing information on outcomes and sanctions with reporting students
- confidentiality processes that could mean a responding party (staff member) moves to another institution
- ensuring that student and staff processes are aligned

Foundational principles

Five foundational principles should inform a university's approach to tackling staff-to-student sexual misconduct. These are set out below with further details available in [Annexe B](#).

1. Universities have a legal and ethical responsibility for the safety and wellbeing of all students and staff.
2. Universities are diverse and autonomous and need to use their own approaches in carrying out this guidance.
3. Addressing staff-to-student sexual misconduct should be part of a broader programme of work designed to tackle all other forms of harassment and institutional inequalities. This principle recognises that universities need to establish an organisational culture that supports and promotes equality, diversity and inclusion, and which is unequivocal that harassment and abuse will not be tolerated.
4. Tackling staff-to-student sexual misconduct is complicated and challenging. To do so requires change at individual, organisational, community and societal levels.
5. Collective responsibility and a whole-university approach within the university community is needed to tackle this problem.

Approach

The wide-ranging advice considered in this guidance reflects the equally wide-ranging impacts of this form of misconduct on students and their experience, and reflects the position and rights of staff as employees.

While sexual misconduct can be perpetrated or experienced by both men and women, staff-to-student sexual misconduct often occurs in a **gendered context**. This recognises that this form of harassment is a function of the wider culture of gender inequality and that it is women who are more likely to experience this form of harassment.

Although gender inequality is an important driver, the guidance also recognises that everyone's experiences will be shaped by other factors too, such as race, ethnicity, religion and faith, socioeconomic status, disability, sexuality, and age, and the intersectionality of those factors.

This guidance takes account of a range of advice provided by bodies such as the Advisory, Conciliation and Arbitration Service (ACAS) and the Equalities and Human Rights Commission (EHRC), higher education sector bodies, and regulatory and policy frameworks relating to processes applying to both students and staff. In particular, it draws heavily on two 2018 reports:

- [Power in the academy: staff sexual misconduct in UK higher education](#) by the National Union of Students (NUS). This sets out the results of a survey of current and former students on staff-to-student sexual misconduct.
- [Silencing students: institutional responses to staff sexual misconduct in UK higher education](#) by Anna Bull and Rachel Rye of The 1752 Group and University of Portsmouth. This looks at the experiences of students and staff who had attempted to report staff-to-student sexual misconduct to their university.

Further published sources that informed the advisory group's work and this guidance can be found in [Annexe C](#) and in the [Evidence review](#).

Evidence of effective practice to address staff-to-student sexual misconduct is limited, apart from The 1752 Group and McAllister Olivarius (2020)'s [Sector guidance to address staff sexual misconduct in UK higher education](#).

Several recommendations call for better management of student complaints and advice. A summary of guidance on managing complaints is given in [Annexe D](#).

Terms used in the guidance are set out in [Annexe E](#).

Defining staff-to-student sexual misconduct

In this guidance, we use the term **sexual misconduct**. This term is used to differentiate university investigations conducted under **misconduct regulations** from police investigations conducted under criminal law. The term 'sexual misconduct' does **not** mean that sexual harassment within a university setting is any less serious than that which occurs elsewhere or that allegations of sexual misconduct may not lead to criminal charges.

Within this context, use of the term **misconduct** refers to behaviour by staff occurring in the workplace (or in a context connected with the workplace or their position as members of staff) or in the course of carrying out their professional role. It also indicates that staff are responsible for maintaining professional conduct when engaging with students.

We define **staff-to-student sexual misconduct** as:

All behaviour of a physically or emotionally intimate or sexual nature by a staff member that, reasonably considered, is inappropriate or unacceptable. This includes unwanted behaviour of a sexual nature that:

1. has the purpose, or may reasonably be considered to have the effect, of violating a student's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for a student
2. is an abuse of power over a student
3. is more or less favourable treatment of a student because the student has rejected or submitted to such behaviour through any medium, including online.

Even if the behaviour is not expressly unwanted, this would still be regarded as sexual misconduct if points 2 or 3 applied.

This definition is based on the definition of harassment set out in **section 26 of the Equality Act 2010**, but goes further by recognising the importance of the context in which this form of harassment takes place and the presence of power imbalances.

In the case of staff-to-student sexual misconduct the 'unwanted behaviour' element of the definition emphasises the importance of consent and whether the behaviour is welcomed by or acceptable to the recipient. It must be recognised, however, that in unequal power relationships, coercive or controlling behaviour or abuse of power imbalances can add complexity to the meaning and validity of consent. Therefore, consideration should be given to the extent to which the consent is genuine.

Sexual misconduct includes, but is not limited to:

- sexual violence; sexual assault; grooming; sexual invitations and demands; sexual comments; sexual non-verbal communication; creation of atmospheres of discomfort; and promised resources or advancement in exchange for sexual access
- abuses of power where someone uses their position of power or authority in an abusive and unacceptable manner. This can take various forms and may include, but is not limited to, manipulation, coercion or pressuring someone to do something which may be illegal or against the rules or something which they are not comfortable with. Abuse of power may also occur in the context of a close personal or intimate relationship
- intimate partner violence and abuse which can also involve control, coercion, threats and stalking.

In unequal power relationships, coercive or controlling behaviour or abuse of power imbalances can add complexity to the meaning and validity of consent.

Further information is available at Annexe E and in the Legal briefing and the Evidence review.

The challenge

The challenges in tackling staff-to-student sexual misconduct can be grouped under four inter-related themes, each linked to different aspects of the university environment: **Culture**, **Policies and procedures**, **Practice** and **Data**. A summary of the challenges relating to each area is set out **below**.

1. Culture

- Harassment and violence against women in wider society is driven by gender inequality, where men and women do not have equal social status, power, resources or opportunities. Similarly, the systemic and institutional culture of gender inequality within universities can deliver a higher education context and culture that can be conducive for staff-to-student sexual misconduct and a 'fear' around reporting. Such a culture includes the existence of 'gendered' power imbalances.
- Other factors can contribute to power imbalances, including personal characteristics such as age, sexuality, and ethnicity, as well as differences in social, cultural and economic capital. Issues related to university hierarchies and structures may also lead to power imbalances, for example:
 - where a student is dependent on a staff member for mentoring, support, funding or references within a small highly specialised field
 - where a student relies on one staff member, thereby providing an opportunity for behaviour that may blur the boundary of the professional and personal
 - where flexible contracts and real or perceived precarity in employment can result in decisions not to report by either the victim or staff bystanders, who may become complicit in covering up for colleagues.
- Cultures may differ across institutions and within different departments and research groups, which may require more targeted interventions
- Academic career structures can be characterised by strong hierarchies and small globally interconnected communities which can act as an enabling environment for sexual misconduct to occur and can hamper reporting and redress.

2. Policies and procedures

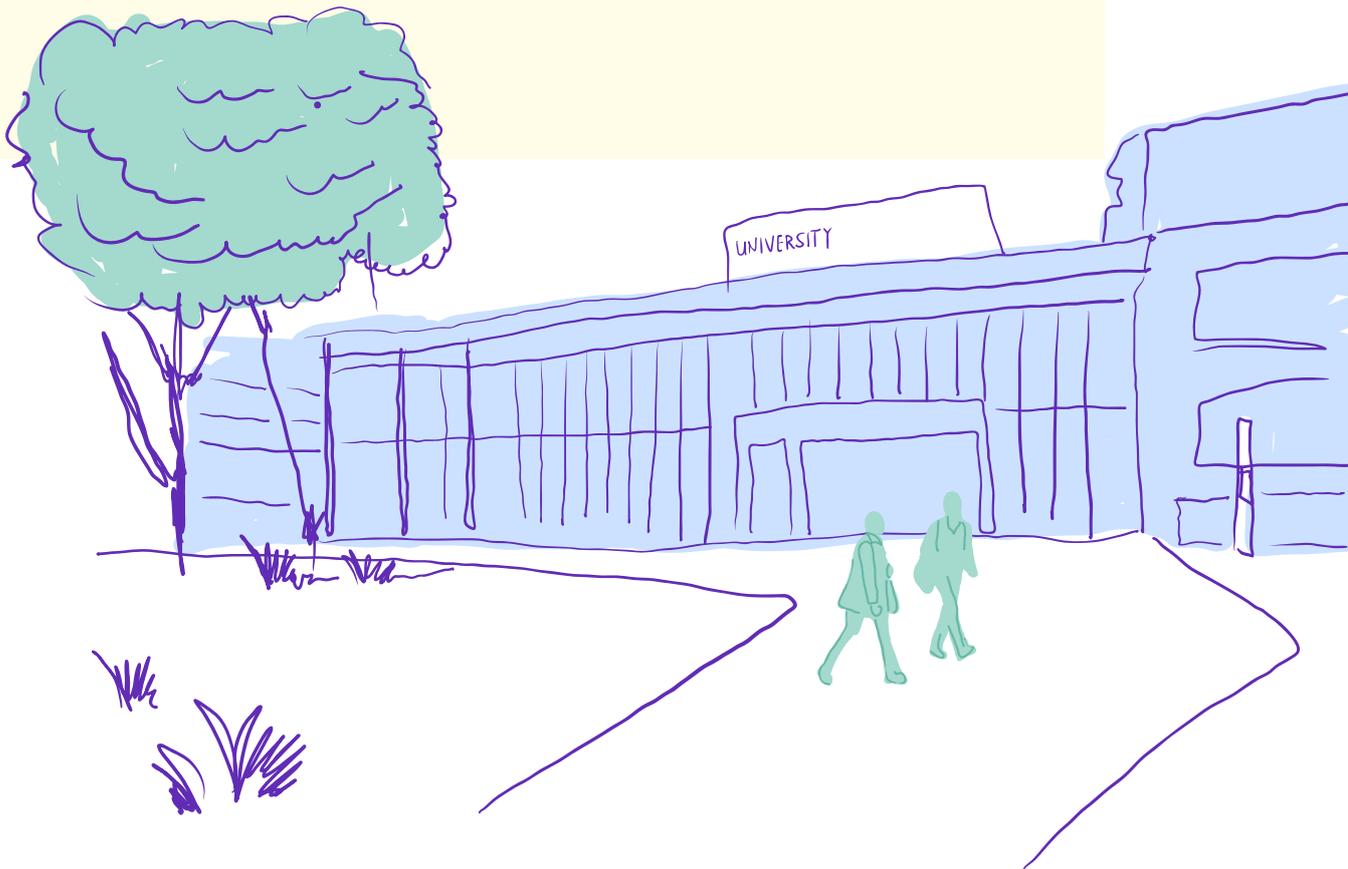
- Higher education is an environment where the value of staff may be defined by reference to what they are perceived to bring to the institution, such as academic status and potential to secure research funding.
- There is **clear evidence** of low levels of reporting which reflects findings around sexual and domestic abuse in wider society.
- Research on policies and procedures to tackle staff-to-student sexual misconduct is underdeveloped. It is therefore not clear what policies and procedures institutions have in place and how effective they are. An analysis of 61 policies by **Bull and Rye (2018)** indicate that most institutions were aware that staff-to-student sexual misconduct was an issue, although there was:
 - a wide variation in the types of policies held, with 32% of universities reporting that they did not have a policy on staff-student relationships
 - a lack of information and transparency within policies and procedures, which results in a limited picture of an institution's approach towards student complaints of staff-to-student sexual misconduct or relationships/ conflicts of interest
 - limited discussion of the problems with sexual consent within a relationship of uneven power
 - a lack of clarification for what is, and is not, appropriate behaviour by staff
 - a lack of provision for alumni complaints against current staff
 - a reliance on the integrity of both the staff member and student to ensure that abuses of power do not occur
 - a lack of consistency in the application of policies by universities
 - a lack of understanding among students about the differences between a student complaint's process and a staff disciplinary policy.

3. Practice

- **Bull and Rye (2018)** found inadequacies in institutional complaints, investigation and disciplinary processes including:
 - lack of information on next steps once a complaint had been made
 - length of time for resolving complaints
 - lack of advice and support for both reporting and responding parties when making a complaint. This includes what happens when a complaint is made and the personal implications of complaining (which can impact the management of expectations across all parties)
 - lack of evidence in investigations and dissatisfaction by reporting parties on the thoroughness, transparency and independence of the complaints and investigations process
 - lack of general training for staff in responding effectively to complaints, and lack of specific training in understanding the nature and impact of power dynamics and trauma-informed approaches to investigations
 - inadequate management of risk and needs assessments and safeguarding actions. This includes recognition of risks to the reporting party and the responding party, as well as other members of the university community, the institution and wider society
 - lack of feedback and sharing of information to the reporting party on the outcome of a complaint. This also applies to the sharing of outcomes of investigations and disciplinary proceedings, where appropriate and lawful to do so. Some institutions raised concerns that sharing information on outcomes or sanctions relating to any disciplinary action against the responding party may breach data protection legislation
 - lack of clarity around a remedy for partial and fully upheld complaints

4. Data

- limited feedback sought by universities on the effectiveness of institutional complaints processes, therefore limiting the potential to improve processes.
- Challenges around transparency including the use of NDAs or confidentiality clauses in settlement agreements in cases of sexual harassment. NDAs or confidentiality clauses can enable staff to move on to other institutions without an apparent impact on the individual or the institution's reputation.
- There is a lack of robust data on prevalence in universities, which impacts on institutions' ability to tackle this issue. This is compounded by under-reporting of staff-to-student sexual misconduct, meaning universities may not be aware of the prevalence of this form of harassment or the impact this can have on those affected, or where to target interventions.
- Challenges in data capture, including informal reporting of incidents and anonymous reports.
- Challenges around the use, sharing, storage and publication of data.



Call to action

Responding to the challenges outlined, we offer a series of strategies, interventions and actions to support an effective operational response to staff-to-student sexual misconduct. These expand on the recommendations set out in the **Strategic guide** and are informed by empirical research set out in the **Evidence review**.

Recommendations are presented thematically under **Culture, Policies and procedures, Practice and Data**. Although each theme is considered separately, they intersect and are not mutually exclusive. Therefore, some of the suggestions and actions appear in more than one theme, reflecting their interconnectedness.

Addressing staff-to-student sexual misconduct effectively will require a **joined-up approach across university departments, with action across all themes**.

The guidance recognises that the recommendations and suggested actions will be delivered in different ways by universities of different sizes, structures, missions, student demographics and geographical locations. Notwithstanding this, universities are encouraged to work together to improve and share practice.



Culture

Overview

Culture is about people and structures, including the way we behave and respond to others, events and the environment. Put simply, it's 'the way we do things around here'. Having a culture that actively opposes staff-to-student sexual misconduct and supports good relations requires the creation of safe and open cultures, where inclusion and diversity are encouraged, dignity and respect are practiced, and harassment is not tolerated or excused.

The first step in addressing staff-to-student sexual misconduct is to **embed an inclusive and positive culture** where the **rights of all members of the community are acknowledged and realised**. By doing this, an institution, working with all members of the university community, is best placed to shape the expectations and behaviours of those in the community and deliver a safe, positive and inclusive environment.

Yet university environments can be susceptible to harassment and, more specifically, conducive to enabling staff-to-student sexual misconduct. This can be compounded by power imbalances between staff and students causing unique challenges when tackling this form of misconduct. For example, postgraduate students who also teach can be more at risk in their role as students than as staff due to the nature of supervisory relationships and vulnerabilities in terms of career progression. A lack of support for postgraduate research students can also create a 'conducive context' for sexual misconduct. Therefore institutional prevention and responses should proactively target postgraduate student cultures and experience.

Unsurprisingly, the culture of an institution, and an individual department or team, can influence either positive or negative behaviours. Each member of the organisation or its constituent part has a responsibility to shape or reshape the culture in a positive way, with senior leaders having a particularly important role to play.

How cultures can support and condone sexual harassment in all its forms is well documented. Evidence on the impact of power imbalances in the workplace and higher education is set out in the [Evidence review](#).

Defining culture

Identifying an existing organisational culture in relation to addressing staff-to-student sexual misconduct requires two steps:

1. Accurately assessing where the organisation is now by analysing qualitative and quantitative data such as the number of disclosures, reports and complaints.
2. Having a shared understanding of the current and planned organisation. This includes an understanding of the cultures that exist within an institution and how they may differ across departments, research groups and functions.

The [Changing University Cultures \(CHUCL\) framework](#) can support universities in identifying issues and building capacity towards improving cultures. The framework enables universities to tackle intersecting inequalities and address issues such as harassment, bullying and violence through supporting structural and cultural change, and moving towards establishing more equal and caring institutions.

Ensuring that the definition of culture applies to and is accepted by students and staff is also important.



Changing cultures

In addressing staff-to-student sexual misconduct, culture change has three key aims:

- (i) **Identifying and actively denouncing underlying beliefs and normalised behaviours** that perpetuate social and gender norms and stereotypes which undermine gender equality and can create a conducive context for staff-to-student sexual misconduct.
- (ii) **Establishing behavioural norms ‘of collectively challenging sexist or sexualised cultures of teaching, learning and scholarship’**. This relates to teaching and learning that takes place in public spaces in universities, as well as in private unmonitored spaces. This has increased in importance given the shift to online teaching and learning during the pandemic.
- (iii) **Formulating respectful attitudes and behaviours between staff and students** to construct a university culture in which staff-to-student sexual misconduct is prevented and/or addressed as unacceptable and, if this should occur, individuals feel able to report concerns and are confident that they will be acted upon.

Strategies and interventions to support prevention are core to creating a culture which prevents staff-to-student sexual misconduct. Further details on prevention are available in the section on [Practice](#).

Although outside the scope of this guidance, we also recognise that **institutional structures and systems** can play a critical role in developing and reinforcing cultural norms that enable an environment conducive to this form of misconduct. Institutional reviews of these broader issues are therefore also required to create a safe, positive and inclusive culture. For example, reviews of recruitment and selection methods, together with promotion and reward criteria and processes, can ensure that an organisation’s core values are reflected in practice, and staff are appointed, promoted and rewarded for upholding and demonstrating the organisation’s values and behaviours.

Recommendation 1: Culture

Define and embed an inclusive and positive culture to ensure an environment that prevents and does not enable or condone staff-to-student sexual misconduct. Institutions, working with all members of the university community, including collaborative providers, can shape expectations and influence behaviours of those in the community to deliver a safe, positive and inclusive environment.

Supporting actions

1.1 Senior leaders to acknowledge and demonstrate visible ownership and accountability for addressing staff-to-student sexual misconduct

Culture is shaped by the senior leaders of an organisation. Effective culture change at institutional level occurs when those in positions of leadership:

- lead by example
- model a culture of respect, equality and fairness
- challenge behaviour that does not uphold the organisation's values
- enable change to occur throughout the institution.

This includes not allowing positional power to protect individuals, whether that positional power is rooted in supervisory or management responsibilities or as a researcher or academic. Research reputation and 'accolades' should never serve as institutional protection for staff engaged in sexual misconduct.

The importance of senior leadership was highlighted in our 2018 report [Changing the culture: one year on](#), which found that most progress had taken place in universities where senior leaders had committed visibly to implementing the taskforce's recommendations.

Actions that can support senior leaders to shift institutional culture include:

- engaging with the [toolkit](#) and the [quick guide](#) developed to support vice-chancellors and principals, senior leaders and their executive teams in addressing harassment
- considering whether a senior leader of the executive team should take ownership rather than diffusing this across the leadership team
- creating an inclusive culture and environment by setting the tone and requirements in respect of staff and student behaviour

- communicating clear messages to all members of the university community, including prospective students, that staff-to-student sexual misconduct will not be tolerated and action will be taken when codes of behaviour are breached
- working demonstrably in line with the institution's espoused values, such as highlighting the value a university places on the safety and wellbeing of its students and staff in its mission, value statements, and institutional strategies and policies
- not using NDAs or confidentiality clauses in settlement agreements
- committing to good governance in actively addressing staff-to-student sexual misconduct by, for example, embedding within governance structures the monitoring of initiatives to prevent or respond to this form of harassment and providing reports on numbers and outcomes of incidents of sexual misconduct to governing bodies to allow scrutiny and maintain momentum
- seeking training and expertise from external support services or specialist and survivor-led organisations on creating this culture, including how sexual misconduct can manifest differently eg between LGBTQ+ individuals
- committing to training and awareness-raising activities that articulate culture change
- drawing on and engaging with research evidence to tackle staff-to-student sexual misconduct, including involving academic experts within the institution (such as criminologists, sociologists and psychologists) who can provide advice and help drive cultural change.

The role of governing bodies and university courts

Governing bodies and university courts are responsible for the strategy, mission, character and reputation of an institution and for quality assurance of the educational experience. They must also ensure that suitable procedures are in place within the institution to identify, reduce and report on harassment as part of their oversight role, as well as to support the governing body's obligations to ensure, where applicable, that the institution complies with the [Public Sector Equality Duty \(PSED\)](#) under the Equality Act 2010.

Governing bodies therefore have an important role to play in promoting a positive culture that supports equality, diversity and inclusion across the institution and in setting the values and standards that underpin the operation of a university and the behaviour of the university community.

Actions to support governing bodies in this process include:

- leading by example by behaving in accordance with the values of the organisation; building leadership and governor diversity; challenging gendered cultures; ensuring good behaviour permeates through all levels of the institution; and ensuring that this is addressed when not the case

- actively encouraging a culture where reporting of staff-to-student sexual misconduct within the institution becomes the norm
- ensuring that chairs and governors understand what constitutes sexual harassment including staff-to-student sexual misconduct
- having an oversight of institutional activities to address staff-to-student sexual misconduct. This could include working with their executive teams and challenging leaders to embed an inclusive culture across the institution and with any collaborative provision and outreach activities
- requesting regular reports on the university's commitments to tackling this agenda, such as anonymised data on trends and outcomes of staff-to-student sexual misconduct, including action taken in response to formal reports and complaints. This will facilitate an understanding of the nature of this form of harassment
- requiring reviews on the effectiveness of prevention and response activities, the impact on students and the allocation of resources to address staff-to-student sexual misconduct.

Further information is available in the Committee of University Chairs (CUC) [guidance to address sexual misconduct and harassment](#) and CUC [Code of governance](#).

Student leaders

Student leaders are also critical to achieving cultural change, as challenges from peers can be more powerful than institutional messages alone. Universities should work in partnership with students' unions, guilds and associations to help convey important messages among the student body.

Leadership at all levels

Clearly no one person can achieve culture change alone. **Leadership at all levels of the organisation will be required to challenge the status quo.** The actions and behaviours by departmental heads, senior academics and professional service staff can also play an important role in influencing culture within their area of responsibility. This can be supported by:

- sending signals to others about their values and beliefs
- challenging beliefs, unacceptable and sexualised behaviours, and 'lad culture' in student societies including [initiations](#)
- promoting gender equality.

1.2 Identify and challenge underlying beliefs and normalised behaviours that create a conducive context for staff-to-student sexual misconduct

Sexual misconduct is often driven by deeply held norms and attitudes about women, rigid gender roles, and relationships between men and women. Furthermore, teaching and learning spaces can be sexist environments. Sexist attitudes and behaviours may be present among some staff in ways that support the sexism and misogyny of male students. This normalised sexism can make it invisible in ways that could create environments where sexual harassment is carried out, often unchallenged, by academic staff.

Actions that denounce underlying beliefs and norms about gender roles and relationships, along with actions to promote and normalise gender equality, will guard against the creation of an environment conducive to staff-to-student sexual misconduct.

It is also likely that within any institution, and particularly within large multi-faculty or multi-site universities, there will be different subcultures. These can relate to a specific area of activity or group across the university. If an unhealthy culture is allowed in some quarters, this is likely to have a detrimental impact on developing and embedding an overarching inclusive and positive university culture and may deter students (or staff) from coming forward and challenging harassment.

This is particularly relevant where power differences within a department, together with factors such as staff on fixed-term or variable hours contracts, may mean that even where staff and students are aware of sexual misconduct taking place, staff may be reluctant to speak out against other staff or opt to cover for colleagues. Training on how to recognise staff-to-student sexual misconduct that addresses the issues of minimising and excusing such behaviours with all student-facing staff, including course leaders and managers, as well as how to report and speak out, is important in addressing this.

Where there is evidence of reports concerning unacceptable behaviour within a faculty or department, consideration could be given to conducting an **environmental investigation**. Such investigations enable the institution to understand the behaviours in more detail and signpost, support and target interventions where required. Further information on environmental investigations is available from [UCL's prevention of bullying, harassment and sexual misconduct policy](#) and [The 1752 Group Briefing Note No 1](#).

Other actions to help identify and challenge underlying beliefs and behaviours include:

- examining qualitative and quantitative statistical and anonymised data, that relates to gender inequality, including staff-to-student sexual misconduct complaints; staff turnover; staff absence; and staff promotions and recruitment
- challenging ways of thinking that may result in sexual misconduct policy and reporting procedures not being used

- disseminating information on policies and procedures relating to staff-to-student sexual misconduct
- providing specialist training for staff
- expressing cultural expectations clearly and visibly
- providing examples of staff-student behaviour that are contrary to a university's policy on sexual misconduct. These examples can also help provide confidence to staff and students that their voices will be heard
- ensuring that staff and students are clear about what constitutes **appropriate professional boundaries and acceptable practices on social media between staff and students**. The complexities around boundaries can be exacerbated, given a postgraduate student may also be employed as a staff member during their studies. Further information on professional boundaries is available in [Annexe E](#).
- conducting a 'current state analysis' with students and staff to measure the culture and monitor the impact of interventions designed to improve the culture. Marginalised groups must be consulted so that all experiences are reflected in any broader analysis. Getting student sabbatical officers and campaigners on board will also support outreach activities and engagement.

1.3 Set clear norms and requirements of respectful behaviour and promote healthy behaviours between staff and students

Students are often **uncertain** about what constitutes appropriate professional boundaries including acceptable practices on social media between staff and students. This lack of clarity means that students are not always aware when behaviours or actions are at odds with basic professional standards. Uncertainty can form a significant barrier to reporting, and can result in students' understanding of what constitutes staff-to-student sexual misconduct emerging only after inappropriate contact has been experienced. This can be further complicated if guidance on boundaries varies across different situations in institutions, and across disciplines, level of study or department. The potential for blurring of personal and professional boundaries between staff and students is an important factor in the context of staff-to-student sexual misconduct. Professional boundaries should be clearly set out between staff and students and communicated to all members of the university community. Further information on professional boundaries can be found on page 39.

Marginalised groups must be consulted so that all experiences are reflected in any broader analysis.

1.4 Communicate that staff-to-student sexual misconduct will not be tolerated and action will be taken when policies and/or codes of behaviour are breached.

In some subjects, practical sessions, work placements, one-to one tuition, field visits and conferences may result in an increase in the proximity of staff and students. Where this occurs, staff and students should be aware of behaviours and actions that are at odds with basic professional standards. This will guard against misperceptions that different norms of behaviour and standards of professionalism exist in these contexts. Further information on professional boundaries can be found on page 40.

Consideration should be given to how messages of gender equality and a positive and respectful culture that does not tolerate sexual misconduct by staff or students can be embedded throughout the university life cycle.

For students, this could include messaging at open days, applicant days, enrolment and induction, outreach and widening participation events and, prior to enrolment or induction, as part of general recruitment and student contracting or accommodation contracting processes. Many universities already do this, reassuring prospective applicants that the university recognises and actively seeks to address the problem.

Inclusion of such issues also provides a clear message to prospective and current perpetrators of a resetting of organisational culture, behavioural requirements and the establishment of a new norm of reporting and calling out misconduct.

For staff, professional boundaries can be highlighted during staff induction programmes, probation review periods, annual reviews and appraisals, along with development opportunities and periodic reminders of university policies and values.

The transient nature of student cohorts and the movement of staff within and between universities requires regular refreshing of messaging around cultural and behavioural requirements. This can be reinforced by visible, high-profile statements from senior leaders in regular staff briefings, on the intranet and on the university's website.

Creating a working group and/or holding regular open meetings for members of the university community can help in communicating the messaging around the importance placed by the institution on tackling all forms of harassment and ensuring student and staff welfare. These opportunities enable students and staff to be updated on the institution's progress, make suggestions for improvements and support engagement. These can also act as a way of demonstrating that the university's senior leadership team and governors are keen to listen to, and act on, concerns.

1.5 Creating a safe, positive and healthy research and innovation environment

The importance of creating and promoting safe, positive and healthy research and innovation environments has also been highlighted by the government in their [Research and development \(R&D\) people and culture strategy](#), as well as by [universities and research and innovation organisations](#).

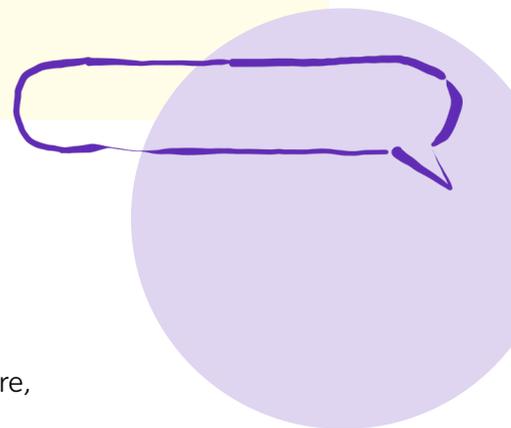
For example, UK Research and Innovation (UKRI)'s [Preventing harm \(safeguarding\) in research and innovation policy](#) aims to support individuals and organisations to enhance how they prevent and address actual or potential harms. The policy, together with terms and conditions on bullying and harassment, sets out expectations of the organisations that UKRI funds and how compliance is monitored through their funding assurance processes. The focus is establishing an organisational culture that is healthy.

Preventing harm in research: key principles

- All individuals involved in the research and innovation process have a role in creating safe and inclusive research and innovation environments.
- Organisations should take an organisation-wide approach to prevention, including providing appropriate leadership and management training.
- Organisations must have clear well-publicised policies, processes and training in place.
- Routes for reporting should be easily accessible and institutions should take prompt action in response.
- The rights of all individuals involved should be protected.

UKRI's [Forum for tackling bullying and harassment in research and innovation](#) is also actively exploring collaborative, cross-sector action to address bullying and harassment.

For examples of case-studies illustrating efforts to improve the culture, conditions and career progression in research and innovation see [The Concordat: highlight Report](#)



1.6 Measure and review changes in institutional culture

To support 'measurements of success', consideration should be given to:

- developing ways to measure culture change. This could include the reporting of incidents and the use of qualitative and quantitative measures and gathering statistical data against pre-agreed key performance indicators and outcomes
 - The ratio of prevalence to reporting may be one measure of how effective a university is in shifting culture change. A university may start with high prevalence and low reporting. They may then transition through to high prevalence and high reporting and then finally to low prevalence and (proportionately) high reporting. Further information is available in the section on [Data](#)
- exploring how the institution could be held accountable, eg publishing an action plan with immediate, short-term and longer-term objectives to shift institutional culture, coupled with regular reporting on progress. This creates a visible signal that the organisation is committed to developing an inclusive, healthy and safe working environment
- ensuring that the leadership team and governing body regularly review the data and agree actions accordingly.

Other mechanisms to effect change include:

- regularly reviewing policies and procedures to ensure they remain fit for purpose and that practice reflects institutional policies and procedures
- reviewing reporting mechanisms and data to determine whether students feel empowered to use these and staff feel empowered to disclose or report or whistleblow on colleagues
- using the [survey questions on professional boundaries](#) from [Power in the academy](#)
- considering signing up to the Advance HE equality charters such as [Athena SWAN](#), the [Race Equality Charter](#), the [Professional Standards Framework](#) (Advance HE) and the Chartered Institute of People and Development's [Investors in People](#) initiative.

This creates a visible signal that the organisation is committed to developing an inclusive, healthy and safe working environment.

Policies and procedures

Overview

Clear, transparent and accessible policies and procedures matter because they enable staff, students and others involved in university activities to understand what is required of them, including professional boundaries, the processes that may be implemented, and the consequences if these responsibilities and professional boundaries are not observed.

Yet reporting of staff-to-student sexual misconduct remains low and this is partly due to **unclear policies**.

Evidence of conflicts of interests or policies on staff-student relationships is limited. However, in their report [Silencing students \(2018\)](#), Bull and Rye highlight several concerns:

- lack of transparency and information on definitions of appropriate staff behaviour and the procedures that flow from the policies
- limited provision for alumni complaints against current staff members
- limited acknowledgement of the problems with sexual consent within relationships of uneven power.

Attention was also drawn to the need to ensure policies and procedures are **fully operationalised**. This will be key to shifting institutional culture because students and staff are more likely to come forward to make a report having confidence that an institution will act in a fair and transparent way.

The rest of this section explores the **role of policies and procedures in establishing a platform to support a culture of professional behaviour and respectful boundaries** in line with a university's values and mission, and offers **suggestions for addressing the challenges** noted above.

A template for a policy to address staff-to-student sexual misconduct is available at [Annexe F](#).

Legal obligations

The format for a robust institution-wide policy to addressing staff-to-student sexual misconduct will vary depending on the institution. However, the legal obligations universities owe to both students and staff require policies and procedures that acknowledge that an institution will take steps to protect students from harm and assist and support them to continue with their education. At the same time, they must treat staff fairly and in accordance with legal obligations including those under employment law.

The balancing of the rights and interests of students and staff should be given careful consideration throughout the development and implementation of all policies and procedures.

We recognise that professional relationships between staff and students can facilitate learning, research and the exchange of ideas, and sometimes relationships will occur between staff and students outside the normal educational context. However, we also acknowledge that there are risks when one party is in a position of power, trust and authority, relative to the other.

It is for each university to determine their approach towards staff–student relationships. Given the power differentials and the professional relationship, we recommend that close personal relationships between staff and students are strongly discouraged by universities. This is especially important where there is a professional relationship.

Where they do occur, the staff member should be removed from all responsibilities that may entail a perceived or actual conflict of interest and/or abuse of power. With the staff member's consent, the student should also be advised of the disclosure, of any relevant changes being made and why they are necessary.

In line with expertise from sexual violence organisations, this section refers to a **trauma-informed approach** in any sexual misconduct policies. This ensures that, as far as possible, those who have been subjected to sexual misconduct can have influence, control and choice over the response process.



Given the evolving nature of the environment relating to staff-to-student sexual misconduct, attention is drawn to the need for:

- language that is understood by staff and students recognising that language continues to evolve
- policies to include examples of what is meant by staff-to-student sexual misconduct and informed by a survivor-centred perspective
- facilitating the sharing of 'what works' across institutions
- regular review and evaluation of policies and procedures to ensure they remain fit for purpose, adhere to data protection requirements and equality impact assessments and are fully implemented
- regular consideration to be given to ensuring cross-university alignment of policies and procedures due to the involvement of both student and staff policies.

Recommendation 2: Policies and procedures

Recommendation 2a

Universities should develop a clear and robust university-wide policy that addresses staff-to-student sexual misconduct, supported by procedures such as those dealing with complaints and discipline. How this policy is operationalised will vary across universities and could be addressed within a university's sexual harassment and misconduct policy, a code of conduct for university staff, and/or captured in a separate policy to manage staff-student relationships, conflicts of interest and power imbalances, along with a commitment in student charters or partnership agreements.

Recommendation 2b

While we recognise the autonomy of institutions, given the power differentials and professional relationship between staff and students, we recommend that close personal relationships between staff and students are strongly discouraged by universities. This is especially important where there is a direct professional responsibility.

Where relationships do occur, the staff member should be removed from all responsibilities that may entail a perceived or actual conflict of interest and/or abuse of power. With the staff member's consent, the student should also be advised of the disclosure, of any relevant changes being made and why these are necessary.

Universities should, where appropriate and in accordance with data protection and human rights legislation, require staff members to declare any close personal relationships they have with students, for whom they have a direct responsibility. A failure to declare can be treated as a disciplinary matter.

Such policies should be communicated clearly and regularly across the university community. Staff-to-student sexual misconduct should also be defined within the university's social media policies.

Recommendation 2c

Policies and procedures must be regularly reviewed to make sure they are used and followed appropriately and are up to date. This is critical so that students and staff have confidence in their institution to act in a way that is fair and transparent. Regularly reviewing policies will also make sure new challenges are identified and addressed.

Supporting actions

2.1 Develop policies and procedures in partnership with students and staff, with advice sought from those with expertise including specialist organisations

Seeking the views and experiences of students, staff and victim-survivors when drafting policies and procedures is important to ensure these are fair to all parties. Ensuring engagement with a diverse range of students as well as considering victim-survivors' needs, voices and experiences, and drawing on expertise within the institution and local specialist services will help ensure policies and procedures are appropriate and effective.

Experts from sexual violence organisations also highlight the importance of policies and procedures being trauma-informed and respecting the decision of the reporting party. This enables the reporting party to feel they have influence, control and choice throughout the process. This can be supported by policies recognising that reporting parties may simply want to be heard and obtain support when requested.



A trauma-informed approach

Increasingly, universities are adopting a trauma-informed or victim-survivor-centred approach to responding to sexual misconduct. This prioritises the safety, wellbeing and wishes of the student/reporting party in determining what actions are taken and how to support the reporting party. As far as possible, it also aims to avoid those who have experienced sexual violence being retraumatised. There are several models for doing this including the Empowerment model.

When adopting a trauma-informed approach, universities will need to distinguish between (1) rights and options for the student and (2) powers of the institution. These need to be balanced and in some cases may conflict. For example, a university will need to balance the duty of care owed to the student in terms of protecting the health and wellbeing of the student as well as ensuring the institution remains able to take any actions it needs to respond to incidents and to mitigate risks more widely. Student and staff expectations will therefore need to be managed carefully.

For further information on the use of trauma-informed approaches in the higher education context, see:

- (a) Section on **Practice** on accessible reporting channels and mechanisms
- (b) Addressing student sexual violence in higher education, Humphreys CJ, Towl G (2020) and How to do more than the bare minimum on harassment and sexual misconduct (2021)
- (c) What would a survivor-centred higher education sector look like? Bull A, Bullough J, Tiffany P (2019) pp73–82

Engagement should be conducted in a sensitive manner that supports student wellbeing by ensuring the availability of appropriate support and safeguards.

Wider stakeholder engagement is also important and should include staff involved in a range of professional services, particularly those working in human resources/people services and governance and legal services, together with trade unions, students' unions, senior leadership, external stakeholders and sexual violence experts.

Domestic abuse experts should also be consulted due to the way in which the power imbalance between staff and students can create a conducive context for abusive relationships.

2.2 Embed policies and procedures within a whole-institution approach, overseen by a member of the senior leadership team and a designated governor/governing body

Universities are encouraged to adopt a **whole-institution approach** whereby policies and procedures to tackle staff-to-student sexual misconduct are connected to other initiatives relating to staff and student welfare, education and preventative campaigns, and actions to address a wider culture of gender inequality that can create the context for sexual misconduct and harassment.

Embedding policies and procedures within an institution's wider governance systems and structures, including teaching and support structures for postgraduate students who also engage in teaching, will support the sustainability of the approach and help maintain their place on the institutional agenda.

All policies and procedures should be fully integrated in and aligned to the institution's broader policy framework to avoid duplication, confusion, or policies or procedures being viewed in isolation. Such cross-university alignment of policies and procedures and their implementation is particularly important when tackling staff-to-student sexual misconduct due to the overlapping relevance of student and staff policies and procedures. Where policies and procedures refer to each other, they must enable students to use them for the purposes of reporting staff-to-student sexual misconduct.

Universities should also consider content, format, application and alignment of policies and procedures of collaborative partners and placement providers, as appropriate.

Evidence from existing practice suggests that policies and procedures should be overseen by a member of the university's senior executive team and this approach could also include someone from the governing body, alongside a strategic group or other mechanism to facilitate implementation (see section on governing bodies on p29).

2.3 Align policies and procedures with the institutional culture and values, and legal and regulatory requirements

Policies and procedures also have an important role to play in defining culture. A good policy without the right culture is unlikely to deliver the best outcomes.

Policies, procedures, strategies and culture need to be closely aligned.

Policies and procedures must comply with all relevant legal and regulatory requirements including, for example, consumer law in respect of student policies and procedures, employment law in respect of staff policies and procedures, and for both students and staff, fairness and equality and data protection legislation. Further information is available in the [Legal briefing](#).

2.4 Communicate policies and procedures regularly to all staff and students and third parties (eg placement providers, collaborative partners etc)

Students and staff are more likely to report an incident or seek help if they are aware of the institution's policies and procedures. Ensuring policies and procedures are clearly publicised and labelled will support this, along with ensuring terms such as 'sexual misconduct' and 'professional boundaries' are explained and used in a consistent way across all policies and procedures. Policies should also be easily retrievable using common keywords.

Communicating policies and procedures across an institution can be challenging, particularly in large and diverse institutions with a regular turnover of both staff and students. In view of this, policies and procedures should be disseminated via a range of channels, such as staff and student university websites; induction programmes or open days for new and prospective students and staff; student handbooks, and social media.

Information could also be included in documents such as student codes of conduct, disciplinary procedures and student complaints procedures, as well as in the student contract, to be contractually binding on the student and institution.

Engaging with staff, trade unions, students and students' unions can support the sharing of policies and procedures.

Messaging and communications should also be consistent between policies and procedures online and offline, and on- and off-campus.

2.5 Define requirements of professional behaviours between staff and students in policies and procedures, including clear descriptions of behaviour that breaches professional standards or crosses boundaries between professional and personal relationships.

It is important to define requirements of professional behaviours between staff and students in policies and procedures, recognising that this type of misconduct could include misuses of power enacted by staff, including academic, professional, contracted or temporary staff, especially in their relations with students. This is also necessary given teaching and learning spaces can be sexist environments, as indicated in the section on **Culture**. **Having a clear understanding of what appropriate behaviour is will also support implementation and enforcement of clear boundaries.**

Reference should be made to issues of consent within relationships of unequal power and the potential impact on equal access to education, opportunities and career progression.

Definitions will also be critical reference points for investigations and disciplinary charges and decisions.

To enhance clarity, definitions can be **supported with examples to illustrate types of behaviour that are unacceptable and how these will be addressed**. This is important as students and staff may not recognise behaviours that constitute sexual misconduct at the time, but may only identify them later. Naming and describing the types of behaviours that students might report, and clearly outlining the steps to reporting, are all useful mechanisms for facilitating reporting. Including a statement in policies encouraging staff or students to report any behaviour that has caused them distress, regardless of doubts about whether it meets an exact definition of sexual harassment or violence, may also support this.

There is a lack of clarity around the professional boundaries and acceptable practices on social media between students and staff. Clearly, social media can be an important tool for building community, and Twitter, Instagram, Facebook and WhatsApp are often used for building professional networks. It can, however, also be used in inappropriate ways.

To guard against such behaviour, universities should ensure that **social media and IT use policies and procedures clearly describe behaviours that are not acceptable over any medium** (social media or email), and that such behaviour would be categorised as harassment. This could include examples such as sending sexualised messages to students, irrespective of whether and how students may have replied to such messages, and examples of more subtle boundary-blurring behaviours likely to occur on social media. It is important that all parties understand their responsibilities regarding what can appear to be an informal and transient mode of communication. Having clearly defined requirements on what constitutes inappropriate behaviour online will also be critical when conducting investigation processes and disciplinary action (see section on [Practice](#)).

Naming and describing the types of behaviours that students are able to report, and clearly outlining the steps to reporting, are all useful mechanisms for facilitating reporting.

Alongside codes of conduct, training and practice in ethical decision-making can also be useful. Further information on professional boundaries is available in [Annexe E](#).

2.6 Acknowledge the power imbalance between staff and students, and the problems with sexual consent within relationships of uneven power

Policies and procedures should acknowledge the unequal power dynamics inherent in any relationship between a staff member and a student, and particularly those students for whom they have a direct professional responsibility, and the ways in which this power dynamic can affect the ability to consent.

This guidance recognises that professional relationships between staff and students can facilitate learning, research and the exchange of ideas. Furthermore, personal close, and often long-lasting, relationships can and will form between students and staff members, and between workplace colleagues. These could start outside the educational context (where the staff member has no direct or indirect professional responsibility or relationship with the student), a relationship may already be established prior to one party becoming a student or member of staff in the same institution as their partner, or an individual may simultaneously be a student and a teacher, eg a PhD student with teaching responsibilities. We also recognise that both students and staff in higher education are likely to be adults.

While we respect the autonomy of institutions and accept that universities do not wish to interfere in the personal lives of their students or staff, it is critical that the university acknowledges **there are risks when one party is in a position of power, trust and authority, relative to the other, and that any new relationship that develops beyond that must be strictly professional.**

To protect all parties, we recommend that close personal staff–student relationships are strongly discouraged by universities and, where they do occur, the staff member should declare this and be removed from all roles and responsibilities that may entail a perceived or actual conflict of interest and/or abuse of power. This is especially important where there is a professional responsibility.

Some universities already include a mandatory requirement for staff to disclose and record all relationships with students, irrespective of whether they have a direct professional responsibility for that student. Where this is the case, an institution may also wish to assert that failure to do so can result in disciplinary action.

Given university communities are diverse, with students and staff coming from a range of backgrounds, it is likely that many will have different lived experiences which may inform or impact on their approach to personal relationships in a university setting and the university as a workplace. In view of this, adopting an educative approach ensuring that all members of the university community are informed of their rights and obligations under any staff student relationship policy, will support students and staff to make fully informed decisions about their personal relationships.

We support the approach already taken by some universities that the responsibility for disclosing a relationship should rest with the staff member and not the student, and that the student should not be penalised for not reporting such a relationship. Requiring staff to disclose relationships can enable the institution to put appropriate safeguards in place.

The university must also consider the implications of receiving this information, and the potential action that might be taken as a result. To justify requesting and retaining such personal information from staff and students, there must be a clear purpose in compliance with privacy and data protection legislation.

From a privacy perspective, data protection legislation permits the collection of data only where necessary for a particular aim. Therefore staff should only be required to disclose where this is appropriate in the context. Collecting this information in advance of any potential issue means the university would need a valid lawful basis to process the personal data and this would need to be balanced against the individual's right to privacy. If the disclosure related to the fact that the individual is in a sexual relationship, it could constitute special category data, as it is 'sex life' data. In this case, a condition for processing under [Article 9](#) of the General Data Protection Regulation (GDPR) and where relevant [Schedule 1](#) of the Data Protection Act must also be satisfied.

A few universities prohibit any sexual relationship between staff and students, such as the [University of Greenwich](#), [University of Roehampton, London](#) and [University College, London \(UCL\)](#).

Several universities make reference in their staff–student relationships policy to staff adhering to the [Seven principles of public life](#). The second principle, integrity, states that staff must disclose and resolve any interests and relationships.

Further information is available in the [Evidence review](#).

Definition of consent

In 2021, the [Everyone's Invited](#) website prompted renewed calls for better education around sexual consent for young people. This was also reflected in the Higher Education Policy Institute (HEPI) research outcomes on [Sex and relationships among students \(2021\)](#), which showed that most students supported the introduction of mandatory sexual consent education on enrolling at university. This research also found that most new students reported that they had not experienced sexual relations prior to university entry, which indicates that there are issues around vulnerability, even for over 18s.

In view of the varying levels of understanding of sexual consent by students who enter university, we encourage universities to **include a definition of 'consent'** and related terms like 'coercion' or 'exploited consent' when referring to consent and consensual relationships in policies and procedures, and to reinforce these definitions through training programmes at induction, orientation and beyond.

2.7 Acknowledge the significance and impact of intersectionality of staff–student power relations

Multiple factors can contribute to power imbalances, including age, gender, sexuality, ethnicity and imbalances in social, cultural and economic capital. Universities should consider how this is acknowledged and reflected in institutional policies and procedures.

2.8 Set out equitable and fair treatment of students and staff

Policies should acknowledge that an institution will take steps to protect students from harm and will assist and support them to continue with their education, while treating staff fairly and in accordance with employment law and other legal obligations. They will also signpost students and staff to internal and external support.

To provide fair treatment of students, universities should also ensure that internal and external student support, representation and advisory services are clearly signposted, and that university services are accessible and reasonably resourced. How this is determined will depend on an institution's own processes.

There is a difference in the legal protections applicable to students compared to staff in relation to proceedings conducted under **staff disciplinary procedures**. Other differences can also exist, such as with support (student support and union-backed legal support) as well as affordability of legal support. In view of this:

- universities should carefully consider how they balance the rights and interests of both students and staff throughout the development and implementation of all policies and procedures
- universities may wish to consider addressing imbalances by:
 - providing additional support
 - amending staff disciplinary procedures to provide reporting parties with a greater voice and greater visibility of what is happening in the disciplinary process. This could also include rights to be accompanied and/or represented.

The **Legal briefing** sets out the legal obligations that universities owe to both students and staff, including a university's duty of care to both students and staff.

2.9 Document pathway for disclosing and reporting incidents

Universities should clearly set out and publicise the pathways for disclosing and reporting incidents. Information should include the options available to the reporting party and the process and potential timescale related to each option, as well as the differences between university disciplinary and complaint procedures and criminal processes. Further information is available in the section on **Practice**.

2.10 Clarify within policies and procedures the process and timescale which the university will respond to disclosures, reports and complaints

This should include:

- information and guidance on how to make a report
- reference to keeping all parties regularly informed of progress and/or delays and the reasons for this. For example, policies and procedures should acknowledge that the ability to conduct an effective investigation may be compromised by the passage of time due to potential difficulties in obtaining evidence. There may also be occasions where the university believes they need to act or report the matter to the police even though the reporting party may not want the university to take any action. If the university discloses information to the police without the support of the

reporting party (or responding party) and this requires the processing of the reporting (or responding party's) personal data, the university must be clear under which lawful basis under data protection that it is proceeding and any rights of the individual to, for example, object to the use of the information

- any decision to share personal data should be clearly documented. To facilitate this universities can refer to the tool in the [**Changing the Culture: sharing personal data in harassment cases. A Practical guide.**](#)
- information on timescales. To manage expectations of all parties this may include indicative timescales, acknowledging they are not always possible to quantify due to factors such as evidence gathering/witness statements and the potential impact of police involvement, and that time limits may be amended depending on the circumstances of the case. This may require a review of student complaint procedures to include alumni and graduates.

The timescale for taking complaints to the Office of the Independent Adjudicator for Higher Education (OIA) in England and Wales, the Scottish Public Services Ombudsman (SPSO) or the Northern Ireland Public Services Ombudsman (NIPSO) should also be included.

If the reporting party is also an employed member of staff and wishes to take their case to an employment tribunal, there is normally a time limit of three months.

Policies and procedures should also include information on how malicious allegations or complaints will be handled. Given the vast majority of complaints are made in good faith, the EHRC [guidance](#) encourages employers to take care in wording their policy regarding malicious complaints, particularly if this may lead to disciplinary action. If not worded carefully, a policy could discourage someone from coming forward if they felt that they may be disciplined if the allegation was not upheld.

Further information is set out in the section on [**Practice.**](#)

2.11 Recognise the sensitivities, and difficulties, for the reporting party in speaking out about sexual misconduct against a staff member

Policies and procedures should recognise the difficulties for the reporting party in speaking out against a staff member. To address this, universities can consider:

- removing time limits on making complaints
- setting out the steps the university will take to protect someone who discloses against victimisation or other adverse effects on their programme, career or personal life
- publicising statistical and anonymised information about outcomes of harassment cases to demonstrate that the university will act. Where an incident falls short of a criminal offence, the university should consider the various rights that need to be balanced when disclosing information about individuals
- informing potential complainants that they are not alone and that others have also come forward with a disclosure. To determine whether this is possible, a university needs to determine on a case-by-case basis whether there is a lawful basis to do this, taking account of the specific circumstances and risks of sharing this information for all parties involved. This should not be done as a matter of routine. Where a legal basis can be found, a reporting party may be made aware that other reports had been made. However, this should not involve disclosing details or the names of others who have made disclosures. Further information is available from the [Legal briefing](#) and our [guidance on sharing data in harassment cases](#).

2.12 Signpost internal and external support for all reporting and responding parties

The importance of student and staff welfare – including the university’s commitment to it – should be enshrined in policies and procedures, to help demonstrate that complaints will be taken seriously. Support, advice and information can also help students and staff to make informed decisions about how and whether to make a complaint.

Support should also be provided and signposted where students make disclosures and reports. Any report of sexual misconduct is likely to have an adverse impact on all involved, irrespective of whether the incident is addressed through a university complaint, disciplinary process or criminal process.

Policies and procedures should state clearly that students and staff involved should have access to appropriate support (internal and external), representation and advisory services throughout all processes. How this is determined will depend on an

institution's own processes. Specific reference should also be drawn to the different support structures that are available for postgraduate students. To address this graduate schools could consider clarifying professional boundaries, training supervisors, creating supportive communities, having options for informally discussing reporting options as well as a specialist member of staff who can support those wishing to make a report.

Wellbeing support offered and signposted should include referrals to specialist sexual violence support services provided by external agencies where possible, such as:

- [Sexual assault referral centres \(SARCs\)²](#)
- [Rape Crisis England and Wales](#)
- [Rape Crisis Scotland](#)
- [Rape Crisis Northern Ireland](#)
- specialist sexual and gender-based violence support within the university
- advice relating to academic, careers, mental health, housing, finances and immigration support

2.13 Make provision within policies and procedures to respond to reports from graduates and alumni, including to historic incidents

Due to the risks involved in making a formal complaint, and other factors such as trauma and the impact on personal wellbeing, students reporting staff-to-student sexual misconduct may delay reporting until after they have graduated. In view of this, policies and procedures should explicitly allow and encourage disclosures, reports and complaints from alumni against current members of staff. Such an approach will help institutions to be informed of incidents involving current staff.

The policy or procedure should indicate how institutions may respond to historic incidents, including in circumstances where it is considered that an investigation may no longer be possible. Policies should recognise that although there may be difficulties in investigating matters where the reporting party has graduated, some form of investigation may still be possible. This is important as several studies have found conclusive evidence that serial perpetration is common. Therefore, this provision can serve as an important prevention mechanism. See the [Evidence review](#) for information on this.

² SARCs, provide a safe space and dedicated care for anyone who has been raped, sexually assaulted or abused ([link](#)).

2.14 Operationalise and apply policies and procedures consistently

Having clear, detailed and nuanced policies and procedures is not enough; policies and procedures must be operationalised and seen to be implemented consistently by the wider university community. Those responsible for ensuring such implementation must be seen to be fully conversant with the policies and procedures and supported from the highest level. This clarity is critical if the institution is to build and maintain the trust and confidence of both staff and students that appropriate action will be taken in cases of alleged staff-to-student sexual misconduct. Such a shared perception will be a key factor in developing a coherent and comprehensive culture across a university in which reporting of sexual misconduct is encouraged. This can be supported by publishing anonymous or statistical data, including about outcomes, in relation to sexual misconduct for staff and students (see section on [Data](#)).

2.15 Undertake testing and regular reviews and evaluations to support a cycle of continuous improvement

Policies and procedures should be tested before they are implemented, but in some cases it may be better to implement and then adjust or evaluate, depending on how quickly the institution wishes to implement the policies. Traditional policies may not be new but there may still be value in testing them. Where a pilot test is not possible or practicable then the views of stakeholders should be sought and case studies examined to check that policies and procedures work for a wide range of scenarios, particularly in complex and sensitive cases. Scenarios considered could include how policies and procedures will work if, for example, a student is engaged in study abroad, on a degree programme offered jointly with an international partner, or undertaking a placement, apprenticeship or internship in industry.

In recognition that it is unlikely that any policy or procedure will be 'perfect', it is essential to align the policy and procedure implementation process with the concept of **continuous improvement**. When a case arises where issues are identified and not covered by existing policies or procedures, or where issues previously identified have not been dealt with effectively, institutions should review and amend policies and procedures to ensure that all policies and procedures are fit for purpose for all who use them. Approved processes for amending policies and procedures should be adhered to, with all policies and procedures scrutinised by the relevant committee or board authorised to approve amendments.

Policies and procedures should also be scrutinised regularly to understand if and how they may be failing to facilitate the identification of staff committing this form of harassment and/or prioritising institutional reputation over student safety and wellbeing.

When seeking feedback, it is important to draw on the views of staff and students, particularly those with lived experience of staff-to-student sexual misconduct and those that have gone through the complaints or disciplinary process. Given the sensitivities involved, engagement should be conducted in a manner that supports both student and staff wellbeing and accompanied with support where appropriate.

Feedback on any emerging trends and data should be sought and scrutinised including, for example, feedback following complaints or disciplinaries. Further information and recommendations for monitoring, review and evaluation more broadly are included in the section on [Data](#).

Policies and procedures that can be used to address staff-to-student sexual misconduct

The guidance recognises that universities will already have a suite of student and staff policies and procedures, and these will vary to reflect the diversity of institutions and their student and staff populations. Specialist institutions such as music conservatoires, drama schools or universities with high levels of one-to-one postgraduate tuition will give particular consideration to the nature of the environment within which staff–student contact hours take place.

< —> ©

Anonymous Report |

Date

To whom it may concern

Examples of policies and procedures

- Policies and guidance to address staff-to-student sexual misconduct could include:

Policy on personal relationships between staff and students, providing guidance for both staff and students.

Clearly defined and identifiable sexual misconduct policy and procedure (in practice, this may be a distinct section within an anti-bullying and harassment or dignity at study/work policy or part of a code of conduct and disciplinary procedure).

Anti-bullying and harassment policy/respect at work and study policy.

Safeguarding policy (students and staff under 18 or adults at risk). Safeguarding means taking all reasonable steps to prevent harm, particularly sexual exploitation, abuse and harassment from occurring: to protect people especially children and vulnerable adults from that harm and to respond appropriately when harm does occur. It is usually used in the school context but is increasingly used within university settings.

Social media policy/IT use policy (for both students and staff; this could include email policy, ie not sending messages with harassing, coercive or sexualised text or explicit images).

- **Codes of conduct for staff and students** (in practice, some institutions may include details on personal relationships within these)
- **Student complaints policy and procedure**
- **Staff disciplinary policy and procedure**
- **Staff grievance policy and procedure**
- **Policy on avoiding use of confidentiality clauses in settlement agreements in cases of sexual misconduct and harassment**
- **Placement or work experience policies**

Examples of policies and procedures used to address staff-to-student sexual misconduct are available in the [Evidence review](#).

[Annexe F](#) provides a template for a policy to address staff-to-student sexual misconduct.

Practice

Overview

The development of clear and transparent policies and procedures and the fair implementation of these will support universities in addressing staff-to-student sexual misconduct. However, policies and procedures alone will not prevent, or provide an effective response to, this form of sexual misconduct. Policies and procedures must be accompanied by **robust practice** that establishes **how** they will be implemented.

This section provides practical support on developing a **university-wide strategic response to staff-to-student sexual misconduct**. This response begins with prioritising prevention. It will support and demonstrate a sustained commitment by the institution to shifting institutional culture and ensuring behaviour change. Specific attention is drawn to the role of leadership and training in changing organisational culture as set out in the section on [Culture](#).

Recognising that incidents will occur, universities also require a robust **response strategy**. This will provide students and staff with the confidence that if they make a report then they will be heard with respect, dignity and compassion, and responded to fairly and effectively.

Policies and procedures must be accompanied by robust practice that establishes how they will be implemented.

As with other forms of harassment, there is no single solution to preventing staff-to-student sexual misconduct. This section introduces a **series of strategies and actions** designed to deliver an effective approach. Embedding these activities within a whole-institution approach will also help ensure **consistency in practice** for students and staff and facilitate cultural change. Dedicated resource should also be provided to ensure delivery of activities.

The primary focus is on:

- **encouraging reporting** by providing **accessible centralised channels** for reporting, including anonymous reporting
- proactively **removing barriers to reporting** and being aware of factors that can act as a **catalyst to encourage reporting**
- providing **clear guidance to manage expectations** of both reporting and responding parties
- providing a **range of support options** for both parties across all processes. This should include support for those that may not feel or want to make a report through formal processes, as well as those that do make a formal report. This should also include having staff with expertise in, or understanding of sexual misconduct
- developing an effective process for responding to reports and complaints from start to finish (ie a **case management process**)
- ensuring the **processes for managing complaints, risk assessments, investigations and disciplinaries are fit for purpose** and align with sector best practice
- **safeguarding reporting students from victimisation or retaliation** from the staff member and their allies, and providing channels for whistleblowing and protection for staff who do so. Some universities also extend whistleblowing procedures to cover students, although the legislation applies only to staff
- creating a culture where **being an active bystander and speaking out is supported and encouraged.**

When developing practice, careful consideration should also be given to:

- the power imbalance likely to be present in staff-to-student sexual misconduct
- the reporting party may be a third party who has witnessed or who is aware of the sexual misconduct
- differences in the legal framework for students and staff (see accompanying Legal briefing) and the impact this can have. For example, under a staff disciplinary process the reporting party's role is typically as a 'witness' which incurs different rights for example in terms of information
- ensuring a balance between the rights of, and obligations to, both reporting and responding parties
- joining up student and staff processes, including managing the relationship between student complaints procedures and staff disciplinary procedures

- increasing transparency, including sharing information with all parties and complying with data protection obligations in relation to any information about identifiable individuals
- the sequencing of initiatives across prevention and response. Before embarking on an awareness raising campaign or training, establishing policies, processes and options for reporting with suitably qualified staff is required to ensure an increase in reports can be responded to appropriately.

Recommendation 3: Practice

Recommendation 3a

Universities should develop a university-wide strategic response to staff-to-student sexual misconduct. This should include a robust prevention strategy, together with a fair, clear and accessible approach for responding to allegations, disclosures, reports and complaints. Taking account of victim-survivor voices and collaborating with students, staff, other universities and external organisations will enhance institutional responses.

Recommendation 3b

Universities should not use non-disclosure agreements (NDAs) or confidentiality clauses in settlement agreements in cases of sexual misconduct or sexual harassment.

Recommendation 3c

Universities should regularly monitor, evaluate and review practice, and share lessons learned across the sector to support a cycle of continuous improvement.

Supporting actions

3.1 Develop a robust prevention strategy

This should include the following:

The role of governance and leadership, with a focus on changing institutional culture

See [Recommendation 1](#) and the section on [Culture](#) for further information on the role of senior leaders and governing bodies.

Assessing risk to other students and staff when a disclosure, report or complaint is received

When a report is received, in addition to a risk assessment for the reporting party, it may be necessary to determine whether other staff and students, especially those in working and/or departmental relationships with the responding staff member could also be at risk. This reflects the duty of care and other legal duties that universities have towards all students and staff. Durham University's [Procedure for managing disclosures or reports involving allegations of staff sexual violence and misconduct](#) includes provision for such actions.

There are perpetrators of staff-to-student sexual misconduct who are serial (repeat) harassers and can target multiple students or staff members, either simultaneously or in subsequent years. See p89 for mechanisms to address repeat harassers.

Specialist training for staff and students to raise awareness of staff-to-student sexual misconduct

This could involve:

- an assessment of the training needs of staff and students; a multi-tiered training plan may be useful to reflect the differing roles of staff involved in responding to the sexual misconduct process
- considering moving beyond optional training to embedding these as part of staff and student induction, given the potential ineffectiveness of optional training in recent years
- an understanding of student and staff rights, such as establishing a common understanding of professional boundaries and appropriate or inappropriate conduct, offline and online
- an understanding of different forms of sexual misconduct, including the ways in which so-called 'lower level' sexual misconduct and 'microaggressions' and 'grooming' can contribute to creating an environment where what some would regard as more 'serious' sexual misconduct can arise and is tolerated (often referred to as the 'spectrum' or 'pyramid of violence')

- enabling spaces and protecting time for open discussions about staff-to student sexual misconduct and the continuum of sexual misconduct. Such messaging can offer reassurance to potential victim-survivors and highlight that such behaviours by potential perpetrators will not be tolerated
- an understanding of power structures and consent in sexual relationships between staff and students, and the impact of power and consent, and how this interacts with other protected characteristics under the Equality Act 2010
- an understanding of relevant policies such as staff–student relationship policies
- receiving and handling disclosures and referral routes
- how to raise concerns including reporting pathways
- what to do as a bystander. This is important as it can be risky for both staff and student bystanders to speak out about staff-to-student sexual misconduct. Bystanders can also be victimised or retaliated against by the harasser, their allies or the institution. There are a range of programmes available for bystander training, including [The intervention initiative](#) and [The Scottish intervention initiative](#). Bystander training for staff should also be considered
- training on when and how to refer a student to specially trained members of staff as quickly as possible
- targeting training and information at a local (departmental) level to help reach sections of the university that may not commonly engage with institution-wide campaigns. Having student and staff champions to support this work at department level may also be useful. This approach avoids responsibility for training resting solely with the head of department, potentially mitigating against a hierarchical approach which can reinforce power dynamics that may need to be challenged
- all front-line staff (ie those with direct contact with students) should have a basic understanding of what to do if they receive a disclosure of staff-to-student sexual misconduct
- induction programmes for students who teach (such as postgraduates) and current and new academic staff should include training on how to recognise sexual misconduct including addressing the issues of minimising and excusing such behaviours, the staff-student relationship policy, reporting pathways, and guidance on professional boundaries including acceptable practices between social media between staff and students
- clear links between the training strategy and wider work on recognising and addressing unhealthy institutional cultures where they occur (see section on [Culture](#)).

Bystanders can also be victimised or retaliated against by the harasser, their allies or the institution.

Defining clear behavioural requirements for all members of the university

This should include codes of conduct for both staff and students, and a clear policy on staff–student relationships. Given the increase in communication using online platforms, universities’ social media and/or IT use policies should also include clarification of professional boundaries and acceptable practices on social media between staff and students.

Specifying clear rules on what is not acceptable behaviour is also crucial to informing investigatory processes and disciplinary action.

3.2 Engage with staff, students, victim-survivors and collaborative partners to explore how to respond effectively to incidents and develop interventions

Engaging staff and students when developing initiatives and campaigns to tackle harassment from the outset, as well as taking account of the voices of victim-survivors, brings significant value and benefits. Engagement should have a strong focus on prevention and culture change.

3.3 Develop a robust response strategy:

This should include the following:

Accessible and clear reporting channels and mechanisms

Universities adopt a variety of approaches and routes for students to report incidents, varying from a single reporting tool (which may be online) to multiple reporting routes.

Having clear channels for reporting incidents and ensuring students are aware of, and have confidence in, those channels will help address low levels of reporting and support victims-survivors to get redress.

Increasingly universities are adopting centralised online reporting mechanisms such as 'report and support' channels where support can still be obtained irrespective of whether a report is made.

Reporting channels capturing incidents that have been informally resolved as well as formally resolved can facilitate universities to build up a pattern of incidents, monitor trends, identify behaviour including sexual misconduct by staff towards students, and to take action. (See section on **Data**).

Whichever reporting mechanism is adopted, it should be easy to use with clear information on who will see the report, how the information provided will be used, the steps for responding to a disclosure, report or complaint, and the escalation of routes.

Reference should also be made to confidentiality. This means universities should not default to providing assurances of confidentiality where doing so may prevent them from responding to allegations that have a safeguarding or other serious impact. Being clear about the parameters of confidentiality will help manage student expectations and avoid misunderstandings.

A clear distinction should also be made in terms of what is meant by maintaining confidentiality in and during the complaints process and making an anonymous disclosure.

If procuring tools to collect sensitive data, universities should be aware of their data protection obligations and ensure that appropriate review, procurement and contract procedures are in place where data will be processed or hosted by a third party, as well as appropriate security and access controls when the tool is in use.

To comply with data protection legislation, universities should state how information collected may be processed and shared in any privacy notices and ensure that these are brought to the attention of students raising any allegations.

The usual options for the reporting student will be to:

- a. seek support such as counselling or academic adjustments or specialist support available externally but not pursue a complaint
- b. disclose their experience, eg to a member of staff, but choose to take no further action at that point in time
- c. disclose their experience, not pursue a complaint, but request precautionary measures are taken by the university, such as a change of supervisor or a no-contact agreement (ie on a voluntary basis)³
- d. make a formal report/complaint to the university. This report/complaint may be considered by the university under the student complaints procedures or other internal procedures, and may lead to a disciplinary process being invoked (this could be a staff disciplinary procedure in the case of staff-to-student sexual misconduct)
- e. make a report to the police; either directly or indirectly where someone contacts the police on their behalf.

When outlining the options available, universities should ensure that the reporting student understands the **procedures, potential outcomes and available redress related to each option**. For example, if a report or complaint alleges behaviour or an incident that could be a criminal offence, the reporting party should be aware of the options and differences in possible outcomes depending on whether the incident is reported to the police or taken through the university's internal procedures. It is also important to note that, depending on the circumstances, **both** internal and criminal processes may run concurrently or consecutively. Procedural and evidential rules for internal and criminal proceedings are also different.

Given power structures within departments, it is important to ensure the reporting party has the option to speak to someone outside their department or faculty if desired. This could be particularly important if a reporting party is a postgraduate student in the same department as the responding party.

A **trauma-informed response** to sexual misconduct advocates that no pressure should be placed on the reporting student to take any particular course of action. However, there may be circumstances where this will not be possible, for example:

- where the reporting party reports that they or someone else is at risk of serious harm
- if they name an alleged harasser from the university community such as a member of staff
- where a risk assessment is undertaken that requires the university to take more formal action.

Before making a disclosure, the reporting party should be aware of the potential impact and next steps once a disclosure is made, including any risk assessment and where they have a right to object or withdraw consent in relation to their disclosure, under data protection legislation or otherwise.

Given the likelihood that reports of staff-to-student sexual misconduct may involve a staff disciplinary or student complaints process, the reporting party should understand that they are likely to be involved in the internal process and that support will be provided throughout the process. This can help manage expectations of the reporting party from the outset.

If a report or complaint alleges behaviour or an incident that could be a criminal offence, the options and possible outcomes of reporting the matter to the police or taking the complaint through the university's internal procedures should be explained to the reporting party.

If a university chooses to report a matter to the police without the support of the reporting party (or responding party) and this requires the processing of the reporting

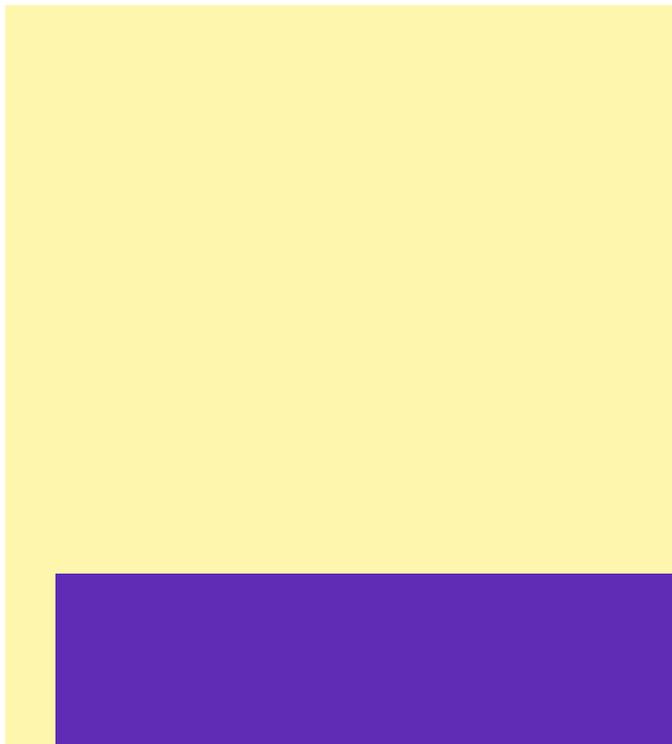
(or responding party's) personal data, the university must be clear on **which lawful basis under data protection legislation** it is proceeding under and ensure that the reporting (or responding party) is aware of any rights to object to the use of their information.

For further information, see the [Legal briefing](#).

Communicating reporting channels to staff and students

Reporting channels should be communicated widely, including targeting communications at student and staff groups who are harder to reach, and these messages should be reiterated regularly at key touchpoints.

Working in collaboration with student and trade unions will help build awareness of reporting and support systems. These groups can also offer feedback on how systems are perceived and any barriers to reporting.



Proactively removing barriers to reporting for the reporting party

Underreporting is one of the most important issues to address in tackling staff-to-student sexual misconduct. The table below provides examples of barriers to reporting and suggests actions to remove them. These were identified in *Silencing Students* (Bull, and Rye 2018). These actions are considered in more detail in the rest of this section.⁴

Barrier	Suggested actions
Lack of reporting pathways or people not knowing how to handle reports	Provide options for centralised reporting or options for reporting routes, including the possibility of students reporting to someone outside their department. This could be particularly important if the reporting party is a postgraduate in the same department. Ensure that institutional systems are understood by front-line staff.
Worried about the impact on their career	Ensure students can discuss concerns confidentially and access support without making a formal complaint. When doing this, ensure students understand the limits of confidentiality (eg where the university may be required to disclose information for safeguarding reasons; wishes to pursue action that requires information to be provided; or where any individual identifiable in the information makes a Data Subject Access Request (DSAR)). See section below on confidentiality.
Being dissuaded by others (peers, staff)	Having someone with expertise/understanding in sexual misconduct and who understands institutional systems may help a student to have the confidence to report. This can indicate a lack of trust in the institutional processes and wanting to protect the student, but can also occur through colleagues wishing to protect the responding party (staff member). Lack of trust takes time to overcome, but mechanisms such as leaders openly discussing their approach to dealing with sexual misconduct and increasing transparency in institutional policies and procedures can help address this.

⁴ With specific thanks to The 1752 Group.

Barrier

Thinking that something is not serious enough, or there is nowhere to go to discuss concerns informally

Knowing harassment takes place but is not acted upon, and therefore there is no point in reporting

Fear of retaliation or fear from the experience of sexual misconduct

Suggested actions

This can be addressed by putting in place mechanisms to discuss low-level issues, eg within a mentoring programme for postgraduate students as long as there is support for concerns to be raised beyond the mentoring relationship where needed. Having a variety of places where concerns can be raised informally, such as 'open door policies' or creating a harassment network where staff are trained and resourced to respond, and providing options to report anonymously.

Where staff-to-student sexual misconduct is accepted and normalised within a particular department or school, training and awareness-raising initiatives can support the dismantling of such cultures.

Where there are rumours or informal knowledge of sexual misconduct/harassment within a department (but before any formal complaints), an investigator could be appointed and students and staff given an opportunity to make an anonymous report. If such interventions are carried out, care needs to be taken if confidentiality is promised. For example, in some circumstances a university may not be able to maintain confidentiality if the responding party makes a Data Subject Access Request (DSAR), the police require disclosure of the information or the university is obligated to take further action due to the seriousness of the allegations.

Action by the university may also be limited to general interventions to reinforce requirements regarding behaviour, rather than specific disciplinary action against an individual.

Victimisation is unlawful under the Equality Act 2010. Including information on the approach to protect students from victimisation in any documentation on reporting will help reassure students that the institution is willing and prepared to address this issue. This can be further supported by discussing any fears the student may have around victimisation and putting in place.

Barrier**Suggested actions**

The OIA [guidance](#) also makes clear that a student should not be disadvantaged as a result of making a complaint.

Some students, especially women, students of colour, disabled students and LGBTQ+ students may have had poor responses when reporting harassment. Therefore, ensuring the reporting party understands the type of response they will receive, and are listened to and taken seriously will be important. Setting out timescales, procedures and possible outcomes from the outset will also help manage expectations.

An explanation of how institutions will deal with retaliation by responding parties and their supporters can be signposted in flowcharts outlining how institutions will deal with a complaint.

Lack of faith in the institution to act

Creating a culture of trust is essential, where the reporting party is encouraged to report knowing that they will be heard and not disadvantaged by making a report; ensuring appropriate procedures are in place and action will be taken; and ensuring support is available and information will be shared where appropriate and lawful.

Signposting to a point of contact who can explain the process and facilitate access to specialist support, such as a sexual violence liaison officer (SVLO), can also help.

Concerns regarding confidentiality after reporting

Ensuring confidentiality where possible is a key area where control and choice need to be given to the reporting party. Students may not want their peers, family or other staff members to know what has happened to them, and they may fear retaliation by the staff member or their allies. Alternatively, they may wish to say what has happened to their lecturers and/or peers if they have missed classes etc.

Barrier**Suggested actions**

Need a reference from the staff member they report to

However, there will be constraints around confidentiality during the investigation process, and these need to be explained to students when they are considering making a formal complaint. Options for confidentiality should be discussed on disclosure, and set out in policies, including any privacy notice provided to reporting parties.

This should be provided for in student–staff reference policies, which should be drafted in such a way as to avoid detriment to reporting individuals. Whether or not a student or member of staff is entitled to a reference will depend on an institution’s reference policy, custom and practice. For further information, see section on dealing with the movement of respondents between universities on p90.

Not wanting to make a report until graduated

Some students may not feel able to go through the process of making a report while studying. Removing time limits may help address this.

Lack of provision for third party reporting (eg bystanders)

Third party reporting can enable other students or staff members to make a report if a student does not wish to report an incident, and this could trigger an investigation. For further information, see section on investigations on p80.

Feeling complicit in the behaviour, or that others would judge their actions

People who experience sexual misconduct can perceive themselves to be at fault or blame themselves for what happened. Reporting the staff member may also involve disclosing personal behaviours that they may not wish to convey due to concerns that others may judge their actions. This may be exacerbated by having to disclose/report to academic staff, or others at the university, where they want people to think well of them and to judge them on their academic achievements. This can be addressed by clarifying professional boundaries around what behaviours are acceptable from staff members as well as implementing disclosure training for staff so that they respond and signpost appropriately.

To encourage and move towards reporting 'being the norm', a number of factors that can work as catalysts to reporting were also identified in *Silencing Students* (Bull and Rye, 2018) as set out in the table below.⁵ Although moving towards this is an important aspiration, it is equally important to ensure survivors do not feel pressurised into reporting if they don't want to.

When designing reporting channels and mechanisms, it is also important to be mindful of both the barriers and factors that can act as catalysts, as well as recognising that students may take months or years to come to the decision to report or may choose never to report because of the risks that this could entail.

Reporting catalysts

Being able to report an incident after graduating/finishing a degree

Evidence shows that some students do not wish to report while studying; allowing alumni to make a report against current staff and setting this clearly in a policy may help.

Wanting to protect oneself and other students

Having policies and procedures in place that are acted on can provide a reporting party with confidence to report.

Feeling strong enough to report

Sometimes it may take some time for students to be able to make a disclosure. Removing tight time limits may help students to respond at a time that is right for them, although it may be helpful to note time limits for reporting to an employment tribunal.

Seeing the harasser again after some time, and having an adverse reaction

As above, this suggests that removing time limits or being clear that time limits are not absolute or normally required may facilitate reporting. Complete removal of, or silence about, time limits may be unhelpful in leading to a tendency for issues to be raised well after the relevant events.

⁵ With thanks to the 1752 Group. Further information is available from Anna Bull (2021), Catalysts and rationales for reporting staff sexual misconduct to UK higher education institutions, *Journal of Gender-Based Violence*. <https://doi.org/10.1332/239868021X16270572218631>

Reporting catalysts

Hearing about other students who were reporting the same staff member; concern over the welfare of other students

Escalation of misconduct

A change in personal circumstances

Being validated by a third party that an experience was not acceptable

Support from other students who were reporting the same staff member

Details

Evidence suggests that students and staff may make a report, despite the risks that this brings for them personally, to protect others at risk from the same staff member. This recognises that staff-to-student sexual misconduct may sometimes impact on more than one student and involve wider groups. Where this occurs institutions may wish to consider collective mechanisms for remedy.

Undertaking a risk assessment to ensure the reporting student and other students are safe from retaliation and future sexual misconduct.

A trauma-informed response indicates that control and choice for those making reports will be prioritised. This can be facilitated by ensuring that support is not dependent on making a formal report.

Having a clear shared understanding of acceptable behaviours across a department or research group, including an understanding of what staff-to-student sexual misconduct looks like, can influence whether students decide to report.

Reporting as part of a group may help some students to report. However, there may be issues around sharing information.

Enabling anonymous disclosures and reports

Difficulties in coming forward to make a disclosure, including the fear of retaliation, are well-documented and reflected in the low levels of reporting across all forms of sexual misconduct. **Universities are encouraged to provide an option to enable reporting parties to report anonymously.** Organisations working with victim-survivors, such as Rape Crisis, emphasise the importance of providing options to allow a victim-survivor to make an anonymous disclosure. This can provide a valuable first step for someone to communicate their experience but who may not yet be ready to reveal who they are. The process of doing this may also help raise the confidence of the victim-survivor so that they come forward at a later date (Busby N 2022). Free text boxes enabling a reporting party to tell their story in their own words can further enhance this. With free text boxes care is needed to ensure that the reporting party does not share any information that is identifiable, including the responding party, as this could cause issues with other obligations such as safeguarding. Individuals named or identified in anonymous reports may still be able to gain information via a data subject access request and so anyone making an anonymous report should be made aware of this.

Whether a university can take any action or only limited action will depend on the information that the reporting party provides, either by choice or by limiting the anonymous reporting system. Alongside the option to report, it is therefore important to provide clear information on the extent to which an institution can investigate and act on any disclosures or reports. For example, it will not be possible to open an investigation into a named individual unless they are able to understand and respond to the allegation. Therefore without direct testimony and/or other corroborating evidence, the evidence may be insufficient for a university to proceed fairly with a staff disciplinary process. Ensuring a reporting party is aware of this will help manage students' expectations.

Anonymous disclosures and reports can be useful from an institutional perspective as a way to signal that support is available for reporting parties without having to go through a formal reporting process. With appropriate support students may in the future feel able to make a formal report. This can be helpful to the university (as long as the reporting party is free to choose whether to report) as this may help the institution in protecting other staff and students as well as the reporting student.

Anonymous disclosures and reports can also support an institution to proactively identify staff-to-student sexual misconduct. For example, it may enable an institution to:

- identify departments, schools or services where there appear to be consistent issues, thus enabling further interventions such as environmental audits
- identify barriers to reporting

- implement targeted preventative measures and to take proactive steps to build trust with particular areas/groups within the institution from where anonymous reports are occurring, such as:
 - running awareness-raising workshops on what constitutes sexual misconduct, what options are available to report concerns or seek support, and how the institution addresses these issues
 - undertaking cultural change work across the department/team, where acceptable modes of behaviour are discussed and agreed by staff and students, and confirmed each year
 - improving processes and clarity of approach when reporting at departmental level.

Publicity about the introduction of an anonymous reporting channel might also deter inappropriate behaviour.

The institution can also use the information gathered from anonymous disclosures and reports to inform policies and general practices. Asking equality questions in anonymous reporting may also provide a clearer picture of trends. This also provides students and staff with clear evidence that it is worth reporting all incidents, even anonymously.

For information on the uses and limits of anonymous data, see the section on [Data](#).

Enabling and supporting whistleblowing

It is important to ensure there are appropriate channels for whistleblowing and protection for staff who do this and create a culture where being an active bystander and speaking out is supported and encouraged.

Establishing a single point of contact

A single point of contact will enable students to be supported more effectively. Consideration should be given to establishing specific posts that can provide such a contact and support such as a **sexual violence liaison officer** (SVLO) or similar. A single point of contact will reduce the likelihood of students discontinuing their report as they move from one member of staff or service to another, and will also enable greater specialisation by the appointed member of staff who is likely to be more effectively trained and experienced in addressing matters of sexual misconduct. When establishing a single point of contact, it is vital that the support provided is effective to avoid a single point of failure arising.

3.4 Develop an effective process for responding to reports and complaints

Although every university will have its own response procedures for the safety or wellbeing of the reporting party, there are many components that are common across universities and in line with external complaints schemes:

(i) Sector models for handling student complaints:

- [OIA in England and Wales](#)
- [SPSO in Scotland](#)
- [NIPSO in Northern Ireland](#)

where a complaint refers to misconduct that could also constitute a criminal offence, reference should be made to [UUK/Pinsent-Masons guidance \(2016\)](#).

(ii) Other sector developments

- In February 2021, the Scottish Funding Council called for all Scottish universities to carry out a self-assessment of their own procedures for responding to staff-to-student sexual misconduct in relation to a series of recommendations set out in two independent QC-led reports:
 - [Report to the Principal of the University of Strathclyde on the University's handling of past complaints of sexual misconduct against a former member of staff, Kevin O'Gorman, following his conviction in 2019 for a range of offences committed while in employment at the University of Strathclyde.](#)
 - [Report to the Principal and Vice-Chancellor of Heriot Watt University on the systems, processes and matters used to appoint Professor Kevin O'Gorman and respond to concerns raised about his conduct.](#)

In April 2021, the OfS published its [statement of expectations](#) for higher education providers in England for preventing and addressing harassment and sexual misconduct affecting students in higher education. This provides a set of recommendations to support universities to develop and implement effective systems, policies and processes to address harassment and sexual misconduct, including by staff. This guidance will support universities in responding to the statement.

Employment law considerations

For guidance on employment law, see:

- ACAS [Codes of Practice on good employment relations practice](#)
- ACAS [Guidance on handling a sexual harassment complaint](#) (complaints in the workplace)
- EHRC [Sexual harassment and harassment at work: technical guidance](#)

Further information on complaint models and employment practice is available in [Annexe D](#).

An effective response: step-by-step guide

This section presents the key components in responding to reports and complaints and is structured in the form of a timeline from the development of processes to outcomes from these processes.

Consulting with students and victim-survivors in the development of complaints and disciplinary proceedings

When developing a process to handle complaints and disciplinary procedures, universities should consult as widely as possible. Consultation should include trade unions, students' unions and, particularly, those who have experienced dealing with complaints or reports of staff-to-student sexual misconduct, including both reporting and responding parties and investigators, panel members and staff to whom disclosures have been made. A thorough consultation process will support a widespread and common understanding of an institution's existing and/or new procedures, and can support students' and staff union representatives to use the procedures effectively as well as creating shared ownership of the process.

Managing the interface between student complaint processes and staff disciplinary processes, and ensuring alignment

When an allegation, report or disclosure is made about a member of staff by a student, a university will need to consider whether to investigate and if so, under what procedure.

Traditionally, where a student has made a complaint under the **complaints procedure** (if appropriately drafted), this will specify whether such complaints are investigated under the **student complaints procedure** or are referred to the **staff disciplinary procedure** or another procedure.

Alternatively, an institution may conduct a **joint student/HR investigation** (which replicates the safeguards provided to a member of staff in relation to an investigation under a staff disciplinary procedure) or consider the introduction of a standalone procedure.

Whichever procedure is invoked, it should circle back to the student complaints procedure for determination of the complaint. **The student should be given a decision with reasons**, and where the complaint is wholly or partially upheld, redress, along with any right of appeal and ultimately a completion of procedures letter.

Given the difference in status and rights of the reporting party when an investigation is taken forward under a staff disciplinary process, universities may wish to **consider adapting staff disciplinary processes to give the reporting student a greater voice and greater transparency**.⁶ This can reduce the differences in the role or experience of the process for reporting parties while still ensuring legal and procedural compliance, including affording procedural safeguards to the reported member of staff.

Due to there being different routes when responding to a disclosure, report or complaint, it is important that the university **manages the interface between complaints procedures and disciplinary procedures and ensures that these are aligned**.

Equally, universities should ensure that the reporting party understands the different rules that might apply to the different procedures from the outset, and make the decision on which route will be followed as early as possible in the process, and ensure the student is clearly informed.

The role of the reporting party is set out below, illustrating how the reporting party's role may be limited in the (traditional) staff disciplinary process and how both processes could run concurrently.⁷

⁶ [Sector guidance to address staff sexual misconduct in higher education](#) by The 1752 Group and McAllister Olivarius

⁷ This table builds on arguments developed by Bull, Anna, Georgina Calvert-Lee, and Tiffany Page. 2020. *Discrimination in the Complaints Process: Introducing the Sector Guidance to Address Staff Sexual Misconduct in UK Higher Education*. Perspectives: Policy and Practice in Higher Education

Student complaints process

Reporting party:

- is a party to the process
- can be present at hearings and can put forward and explain their case and may have the opportunity to comment, as part of the investigation, on the member of staff's response to the allegation (provided this is set out in the student complaints procedure)
- has sight of the investigation report and outcome of the complaint, if the student complaints procedure provides for this. A student can also make a DSAR for any personal data that relates to them. However, this does not mean that a full investigation report needs to be disclosed to the student. The student would only be entitled to receive information which identifies (or could identify) them and relates to them and would not be entitled to receive information where an exemption under the Data Protection Act 2018 applies. For example, in most cases the student would not be entitled to receive personal data of the responding party under a DSAR. This might include, for example, mitigating evidence such as the responding party's individual circumstances or mental health.
- has the right of appeal.

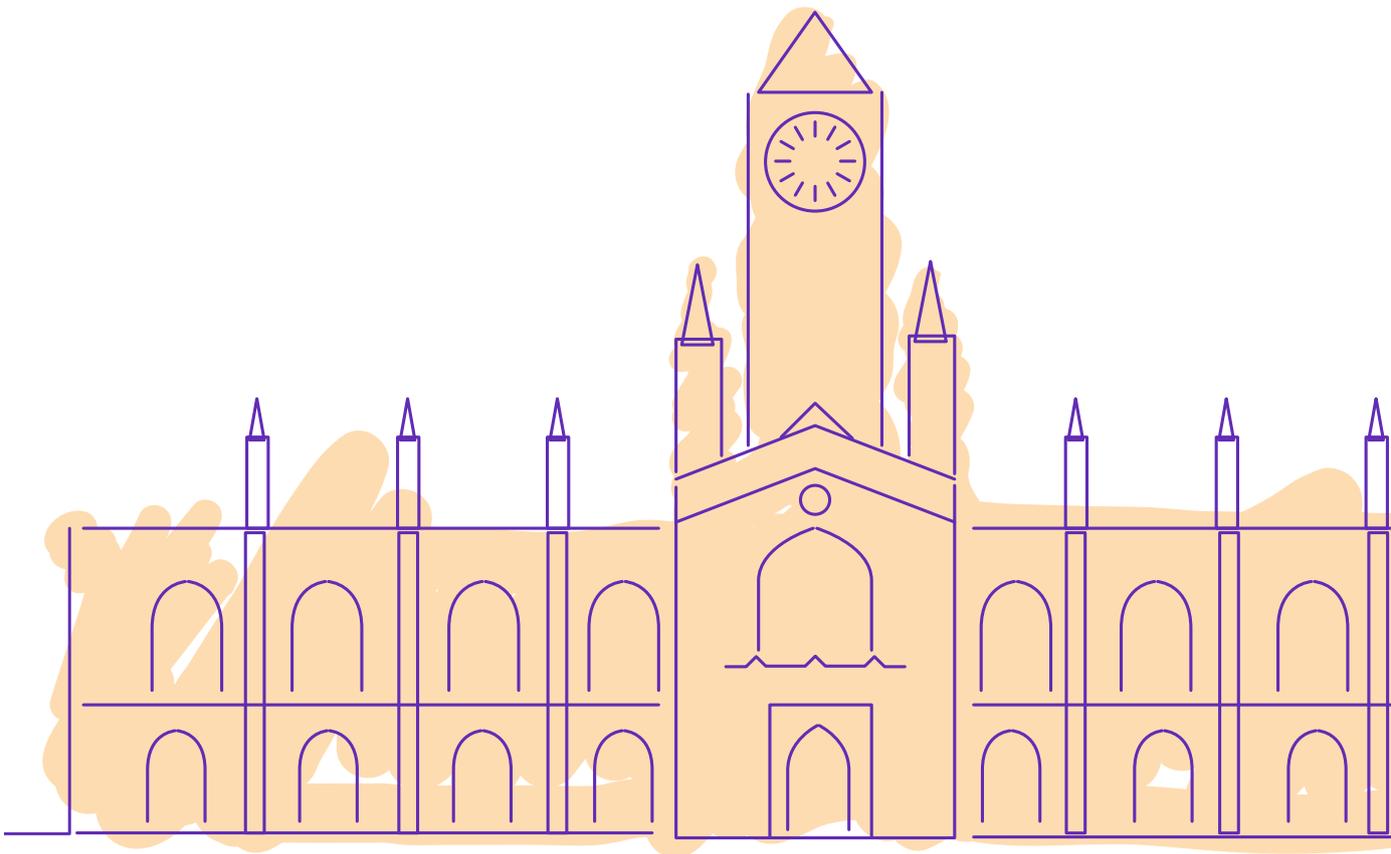
Staff disciplinary process

Reporting party:

- is not a party to the process, ie is a 'witness'
- can be present at the hearing only to give evidence and be questioned. Institutions should consider how questioning should take place (eg through the chair, in writing, by video link), particularly in cases of serious sexual misconduct allegations, including whether the responding member of staff or their representative are entitled to question the student directly
- may not see the investigation report although the reporting student may submit a DSAR for any personal data that relates to them, whether or not the rules state that they are entitled to the report, and so at least some aspects of the report may be disclosable to the extent that they contain the reporting party's personal data and provided other exemptions under the Data Protection Act 2018 do not apply.
- may or may not be told of any disciplinary outcome or sanction on the responding party.⁸ For further information please see [guides on sharing data in harassment cases by UUK and Coventry University](#).

⁸ [ACAS guidance on handling a sexual harassment complaint \(2021\)](#) in the workplace states that where possible an employer should tell the reporting party person about what disciplinary action, if any, has been taken. To facilitate this, employers are encouraged to ensure that policies and General Data Protection Regulation (GDPR) privacy notices are amended to allow the person who made the complaint to be told about any disciplinary action taken against the person who harassed them.

- has no right to appeal the disciplinary outcome or sanction, although this will depend on the drafting of the disciplinary procedures. A student may, however, depending on the facts, make a complaint under the student complaints procedure about the way in which the university has dealt with the matter.



Risk assessment and management, including risk to other staff and students, on receipt of a disclosure, report or complaint

On receipt of a report, universities should undertake a risk assessment. A risk management framework ensures that decisions are risk based and not taken unilaterally. Risk assessment is a crucial part of the process and universities should have clear guidance on conducting a risk assessment. This could include seeking specialist advice to determine if any precautionary measures are required pending an investigation or generally in the course of the proceedings (such as no-contact arrangement, contact restrictions or suspension) between the reporting party and the responding staff member. Staff disciplinary procedures (like student disciplinary procedures) should include precautionary measures, and institutions should review them to assess their adequacy and scope to deal with this type of misconduct.

Any risk assessment should include consideration of the data protection aspects of any investigation and potential disclosures which may be necessary. See [Changing the Culture: sharing personal data in harassment cases](#) as this also contains a risk assessment.

The risk assessment should include consideration of:

- the support arrangements for the student/reporting party, eg academic adjustments and/or welfare support and any support that might be needed at each stage of the process. This should include making reasonable adjustments for disabled students and staff
- measures that might be needed to protect the reporting party from risk of harm, retaliation or victimisation by the responding staff member and/or other staff. The safeguarding risk should also be included in decisions around the sanctions made against the staff member if the allegation is upheld and disciplinary action taken (if they remain in post)
- the safety of other students in contact with the staff member, and the safety of staff members working with the responding staff member. This is in response to evidence that suggests that there are repeat offenders in higher education. Therefore, addressing the safeguarding risk to other students and staff is also required, especially any potential risk to those in working/departmental relationships with the responding staff member
- the safety of the responding staff member and support generally for the member of staff at each stage of the process
- the risk of impeding or prejudicing police gathering evidence or a potential trial, for example if there could be a suggestion that the reporting party or witnesses have been influenced or 'coached' during the investigation by the university.

A risk management framework ensures that decisions are risk based and not taken unilaterally.

As circumstances are likely to change during the period in which the allegation is being taken forward, risk assessment and any precautionary measures that are put in place should be reviewed at regular intervals and reconsidered as the case progresses. The reporting party should be kept informed of any actions or changes that may occur as the case progresses.

Universities may also wish to consider how to deal with sexual misconduct in the context of their risk register, and reporting obligations to regulators, eg Office for Students (OfS) and the Higher Education Funding Council for Wales.

An independent review into the University of Sussex's response to domestic violence highlighted the importance of the risk assessment process in cases of sexual misconduct and violence and recommended that:

All risk assessments involving violence, abuse, harassment or other issue linked to power, gender, and any of the other protected characteristics under the Equalities Act should be documented and include input from:

- a) an external expert
- b) a representative from another department – with a specialism in the area of the complaint if possible and
- c) representation from the person making the complaint – either the complainant themselves or a person supporting them. Information gathering should be an active not passive part of the process.

The review also highlighted that:

- assessing risk in cases of sexual violence and domestic abuse is a complicated task and therefore these should only be undertaken by those that have a knowledge of domestic violence and have been trained to undertake risk assessments or to use a specific risk assessment tool
- institutional health and safety protocols may also require a risk assessment.

Further information on risk assessment tools is available in [Annexe G](#).

Case management

There is no blueprint for the management of reports of staff-to-student sexual misconduct and different approaches will be adopted across the sector to suit the institutional context. Establishing some form of **case management** that sets out the process in an end-to-end format will be helpful in this context due to the involvement of both student and staff processes; multiple people from different departments/functions across the university; representatives from students' and trade unions; and people from outside the institution.

Support for all those involved throughout all processes

The university has a duty of care to both reporting and responding parties and, as such, support and guidance should be available to both parties from appropriately trained staff at all stages of the complaints or disciplinary process, and sometimes beyond that. Depending on the facts of a matter, this could extend to witnesses and student peer groups. Support should also be considered for investigators and panel members, particularly in serious and sensitive cases.

Given that many victims-survivors do not feel able or want to report we advocate that the provision of support should not be dependent on a formal report or formal complaint being made. Specific reference should include other options for supporting students to be able to remain within an area of study or an institution such as switching modules or supervisors and speaking to the student to find out what they need to feel safe and to be able to continue to study. Providing support for victims-survivors when they disclose will help build trust and confidence and facilitate a report being made at a later date.' This includes being realistic about what the process entails and the time it will take.

Some universities ensure that support for the reporting party is **trauma-informed**. This can guard against the reporting party being re-traumatised when building the case or through having to constantly relay the trauma when accessing certain aspects of support such as mental health support or, for example, when applying for mitigating circumstances or other academic consideration.

It is also important to note there may be differences in the type and level of support available for postgraduate students within the same institution, as they are only likely to be supported by a trade union and have access to free legal advice in their role as a member of staff, not as a student.

Staff should be trained and able to coordinate the provision of internal and external support. This includes referring the reporting party/third party to identified staff members who are trained to take reports of sexual misconduct. This guards against a reporting party having to speak to multiple people. Appropriate staff training should sit alongside general signposting to, and awareness of, internal and external support, so that students can access support directly themselves, including in emergencies.

Establishing relationships with local Rape Crisis Centres, SARCs (sexual assault referral centres) and Independent Sexual Violence Advisors (ISVA) or ISDA (Independent Domestic Abuse Advisors) may also be helpful for signposting to victim-survivors.

If external support is procured, this must be contracted appropriately to ensure all data protection obligations are met, including confirmation of the status of the external provider as a data processor or data controller.

Providing examples and links to the information and support provided for both parties may also facilitate the take up of support and help those involved make informed decisions on how to proceed or respond.

Care should be taken to ensure that anyone who is disabled or has a health issue (including mental health) should be provided with reasonable adjustments in relation to the reporting, investigation and any disciplinary or complaints process. Although not every mental or physical health condition will be a disability under the Equality Act 2010 requiring reasonable adjustments, support should still be considered in the interests of discharging an institution's duty of care and of fairness.

Universities have a diverse student cohort with students from different backgrounds and different lived experiences. Recognising this diversity and the impact of cultural norms and behaviours is also required. For example, for some students, the perceived stigma or shame that is linked to certain sexual behaviours could discourage students from reporting incidents of staff sexual misconduct. Communicating clear information on what is and is not acceptable behaviour between staff and students to these student groups and offering additional reassurance around support, including confidentiality, may help address any language and cultural barriers that may exist to accessing support and fears of reporting.

Staff should be trained and able to coordinate the provision of internal and external support.

A number of universities have already established the role of **SVLO or equivalent:** a person who can act as a point of contact for the reporting party and, in some cases, the responding party, throughout the complaints and investigatory/disciplinary process. The SVLO always remains separate and independent from the investigation or disciplinary/complaints process.

Other forms of support can include local survivor organisations, local and university mental health services, and student-led survivor societies for building a personal network. The SVLO is a distinct role separate from the that of an independent sexual violence adviser (ISVA) whose role is to support victims of sexual violence going through the criminal process.

By working together, HR and student services/registry services can ensure coherent management of the complaints and disciplinary process, including signposting and provision of support for both reporting and responding parties.

Communication about next steps once a disclosure or report is received

Once a report or disclosure has been received by the university, information on next steps, including the process and procedures for both formal and informal routes, should be accessible, easy to understand and communicated widely to students and staff. It is unlikely that mediation will be appropriate due to the power imbalance between parties and the potential for abusive behaviour to be continued throughout the mediation process. Informal approaches, such as implementing a no-contact agreement or changing supervision arrangements, may also be required. Where implementing such an approach, the risk to other students and staff should be monitored on an ongoing basis.

Clear information on the institution's investigatory and decision-making processes should also be available. This should reference the range of actions and/or sanctions that may arise from the investigatory process, distinguishing between complaints procedures that can be instigated by the student, and disciplinary procedures initiated by the university.

Communication of timelines and reasons for any delays

Timelines for handling a complaint and/or disciplinary procedure should be communicated clearly to all staff and students involved in these processes, including where they may be impacted by police investigations. Indicative timescales for procedural steps should be set out clearly in complaints and disciplinary procedures.

It can be challenging to estimate timescales for completion of a case, particularly if multiple witnesses or the police become involved, and this should be made clear upfront to the reporting and responding parties. Where external constraints make it difficult to conclude investigations in a timely manner, the reasons for this should be communicated clearly, keeping both the reporting and responding parties informed of progress and signposting them to ongoing support. The OIA states that a student complaint should be resolved within 90 days, while the SPSO requires a response within 20 working days following the investigation. ACAS' [Code of Practice](#) requires prompt action by employers, including keeping staff informed of progress during long investigations.

A discussion with the police or Crown Prosecution Service may be necessary to seek their view about whether the institution's investigations or internal processes can proceed or should be put on hold. Investigations and internal procedures may run concurrently or consecutively depending on the facts of the matter, and there should be no blanket hold as this could prevent or hinder the institution from fulfilling its legal and regulatory obligations and may lead to a challenge. The integrity of the police and judicial process should be considered carefully.

Investigations

The purpose of an investigation is to seek out, identify and collate evidence. The evidence available will depend on the allegation and may include, for example, CCTV or social media posts in addition to witness evidence and the testimony of the parties.

In the case of an allegation or complaint relating to staff-to-student sexual misconduct, an investigation may take place under the student complaints procedure or investigated as a potential breach of the staff code of discipline or equivalent. In the latter, staff are covered by employment law and the investigation should be in line with ACAS guidelines. It may be helpful to **emphasise the balance of probabilities level of proof in such cases**.

Institutional processes should set out:

- how an investigation is conducted
- the identity of investigators and decision-makers (and if they are different)
- whether, and when, an external investigator may be appointed. (This information should also be accompanied with a data protection notice, setting out this information and other information required by Article 15 of the UK GDPR)

- the circumstances when an institution may need to investigate or make an external report even if the reporting party does not give assent
- the process for investigations triggered by third parties
- how decisions are reached
- how the reporting party may be able to challenge any conclusions. This will depend on how the staff disciplinary process is drafted and will vary across institutions.

Investigations can have a significant impact on all parties involved, and all participants may be concerned about the degree to which confidentiality will be maintained. In view of this, universities should make clear from the outset of the process what the expectations are around confidentiality and what the consequences of a breach would be. It is also helpful to set out why confidentiality must be respected, to ensure that this is not misconstrued as an attempt 'to hush things up' rather than an important protective measure.

It is for an institution to determine whether staff from within the university are used to conduct investigations or whether external consultants or investigators are appointed, or a mixed model adopted.

To date, many universities conduct investigations internally. Where this is the case, investigators and panel members should have the necessary understanding, expertise and training to deal with cases of staff-to-student sexual misconduct so they can manage the process effectively and discharge the legal obligations to students and staff (including the institution's duty of care).

Universities should also consider the diversity of, and equality, diversity and inclusion (EDI) training for, investigators and panel members. Some institutions, eg Durham University, directly employ full-time professional investigators.

Investigators should be free from actual and apparent bias. They should have not been involved in the case to date and, where possible, should not be from the same faculties, schools or service areas as those involved. Institutions should also ensure that those who act as investigators and sit as panel members are themselves supported.

An institution may choose to appoint an external investigator if the university does not have the requisite in-house expertise; a potential investigator is considered too close to either the reporting or responding party; investigations are complex and/or could uncover a criminal charge; or where the case might present significant organisational risk.

If an external consultant/investigator is appointed, they should understand the legal, regulatory and procedural context of the higher education sector and of the institution. Consideration should also be given to data-sharing agreements between the university and the external investigators, including the secure handling of data between them and ensuring that a lawful basis to share the information is identified and documented.

For investigations to be balanced, thorough and impartial, it is critical that staff are trained and skilled. This should include core investigation skills, skills required to interview victim-survivors of sexual misconduct and/or gender-based violence, and an awareness of staff-to-student sexual misconduct and manifestations of trauma. Some universities ensure that their investigators and decision-makers are trained in conducting trauma-informed investigations. This can help avoid retraumatising reporting parties or putting students off reporting and may enhance contextual understanding and facilitate the role being carried out sensitively. Investigators should also be resourced and supported (particularly in serious cases).

If the case involves a reporting party studying abroad or with a collaborative partner at home, this may involve additional challenges in the provision of support, engaging with witnesses, cultural differences or local laws or regulations. Cultural differences may require investigators and panellists to undergo cultural awareness and anti-racism training. There will also be difficulties and complexity in these cases if the student who has suffered the harassment or sexual misconduct does not wish to participate in an investigation, eg as a witness, although this does not mean that action cannot be taken.

Institutional processes will vary. However, the disciplinary panel is generally the final decision-maker pending any disciplinary appeal by the responding party. If the investigation report is submitted to a disciplinary panel, the responding party may challenge, by way of an appeal, the conclusions of the disciplinary panel, the adequacy of the investigation and/or the procedure followed for the investigation and hearing. Disciplinary panels need expert training too.

Ensuring support for both reporting and responding parties is important at investigation meetings and at any disciplinary hearing.

The reporting party should be given the opportunity to be accompanied (whether by a representative from the students' union or a companion). Universities may also wish to consider providing students with a right to representation. This may be a reasonable adjustment for a disabled student depending on the circumstances.

Representation at an investigation meeting may differ depending which procedure the investigation is under.

Being visible about actions taken after an investigation, such as changes to policy and practice, will also help build trust among students and staff.

Further information on investigations is also available in:

- the OIA's [Good practice framework: handling student complaints and academic appeals](#)
- the SPSO's [Higher education model complaints handling procedures](#), which has resources for conducting investigations, including an [investigation plan template](#) and decision-making tool for complaint investigators
- UUK/Pinsent Masons (2016) [Guidance for higher education institutions: how to handle alleged student misconduct which may also constitute a criminal offence](#)

Cases that lack independent witnesses

There may be incidents of staff-to-student sexual misconduct reported where there are no witnesses and this can pose significant challenges for an institution. Investigative decisions should be made on the evidence available, based on the 'balance of probabilities'. Investigations may take place where there are no witnesses or a number. Preparing for scenarios such as this can be addressed by referring to other forms of corroborating evidence, evaluating first person testimony and ensuring that training for those conducting investigations focuses on the investigation and investigative interviewing skills needed in such cases.

Disciplinary processes

Although it is good practice for universities to consider the reporting party's view on whether to pursue a disciplinary or misconduct action against the responding party (ie be survivor-led), there may be exceptional cases in practice where action will be pursued even if the reporting party withdraws their complaint. This could be due to the level of risk that is perceived to exist, and the need to ensure the safety, trust and confidence of the wider university community. Taking action will need to be weighed against risks to individuals' mental wellbeing of doing so.

If a university wishes to proceed without the support of the reporting party, and this requires the processing of the reporting party's personal data, the university must be clear on which lawful basis under data protection legislation it is proceeding, and any rights of the individual to, for example, object to the use of their information. It is also worth considering the impact this may have on the reporting party, given this action may undermine their personal autonomy further along with the potential impact of this on the wider community in terms of discouraging reporting.

There may also be instances where a university does not pursue disciplinary proceedings against a responding party; for example, in cases where there is a lack of evidence or where there are concerns for the reporting student's mental health (this can be a particular concern in serious cases). When this situation arises, clear explanations for the decision must be given to the reporting party. It should be explained that although the university will carefully consider the views of a reporting party, the decision relating to the initiation of disciplinary proceedings is ultimately one for the university and will be based on an assessment of available and permissible evidence and informed by the university's duty of care to all staff and students, including the weighing up of risks to individuals' mental wellbeing if disciplinary proceedings are held. In such cases, it is vital to ensure that the reporting party understands from the outset the processes involved and the support that will still be available to them.

The decision-making process

Following an investigation, the investigation report may be submitted to a disciplinary panel to determine the outcome. As with the investigation itself, consideration should be given to ensuring that a disciplinary panel is free from any reasonable perception of bias, is trained and, in the case of a panel, is diverse. Panel members should also be impartial, independent from the investigatory process and the specific case being considered, and have had training in gender-based violence. Institutions should be open to addressing concerns raised relating to the membership of panels or those involved in disciplinary hearings.

Reasons for decisions taken should be recorded. This will support transparency if decisions are subsequently criticised or need to be reviewed.

Clear information and explanations should be given to reporting and responding parties as to how and when they will have the opportunity to present information or make representations to investigators and panels. This should include how the parties may be supported in presenting differing viewpoints and how they can challenge the information being presented to the decision-makers in ways that avoid in-person confrontation.

Consideration should be given on how to minimise the risk of retraumatisation by reducing the number of times a person is asked to describe the events that resulted in the complaint.

Decision-makers must have access to advice and information that supports a consistent outcome and, where appropriate, the application of sanctions.

Remedies to students for partial/fully upheld complaints

Guidance from the OIA and SPSO both highlight the importance of students receiving a decision on their complaint with reasons and redress where the complaint is partially/fully upheld. For example, The OIA's [Good practice framework: disciplinary procedures](#) (2018) states that 'if the staff member's behaviour is found to have had an adverse impact on the student who made the complaint then the provider should offer them a remedy for that impact' (p24).

It is for universities to determine what remedies are appropriate, and these could relate to academic, financial or pastoral considerations. The position of each individual student may affect what remedies are appropriate, eg international students may not be able to interrupt their studies because of their visas or because they may lose funding or risk funding running out, or part-time students in employment or those seconded by an employer may face additional risks relating to job security if they fail to complete a taught award in line with a previously agreed timescale.

Universities should collect student and staff data on the satisfaction of the complaints process. This will help develop an accurate picture of the quality, consistency and effectiveness of redress mechanisms. See section on [Data](#).

Further information on remedies is available from:

- the OIA's' [Good practice framework: handling student complaints and academic appeals and Putting things right](#)
- the [OIA Annual Report 2020](#), case study number 5, page 18
- for Scotland, the [Model complaints handling procedures](#) and [Redress policy](#)
- Bull and Page (2021) [The governance of complaints in UK higher education: critically examining 'remedies' for staff sexual misconduct](#).
- The 1752 Group/McAllister Olivarius (2020) [Sector guidance to address staff sexual misconduct in UK higher education](#)

Closing the complaint

Unless the report or complaint was raised anonymously, or the reporting party has asked not to be contacted further, the reporting party should receive a response to their concern, unless the reporting party is not the person who was subjected to the misconduct.

The response should be proportionate to the circumstances and will generally be more detailed where a formal complaints process and/or misconduct or disciplinary process has been followed. For further information on sharing outcomes with reporting parties, please see p88 and [Changing the Culture: sharing personal data in harassment cases](#).

Fitness to practise

In some cases, if the responding party is a member of a regulated profession or is studying towards a qualification for a regulated profession, it may be appropriate to consider whether the behaviours that have been alleged should be considered under a fitness to practise procedure and whether the matter warrants referral to the relevant regulator or professional body. Whether it is justifiable to disclose will depend on the specifications or rules set out by the relevant regulator or professional body. Disclosure to external funding bodies may also need to be considered under their research funding terms and conditions (and again data privacy principles will need to be considered). This will require consideration as soon as possible after the complaint/report is raised and the matter identified as also being one of potential professional misconduct.

Universities will also wish to ensure partnership working is in place for management of cases that occur on placement.

Appeals

Guidance from the OIA and SPSO states that where a complaint relates to sexual misconduct the reporting party should have the opportunity to appeal the way their complaint was resolved. If the matter has been dealt with as a complaint under a student complaints procedure the student will have a right of appeal as provided for in that procedure.

If the matter is dealt with under the staff disciplinary procedure the student will typically not have a right of appeal under the disciplinary procedure, but may be able to make a complaint under the student complaints procedure. Alternatively, a university may wish to consider including bespoke provisions to modernise traditional complaint and disciplinary procedures to provide greater rights of review and challenge. For example, if a staff disciplinary process has been invoked a university may permit the student/reporting party to a right to request a review of the disciplinary outcome before it is confirmed rather than a classic right of appeal. This would avoid issues of unfairness or double jeopardy which could arise under employment law.

Students may also have a claim to take to the courts (depending on the facts), eg for discrimination or breach of contract or application for judicial review.

Clearer policies and procedures, together with the sharing of best practice will, over time, lead to more clearly defined norms in terms of the ways in which reports and complaints are addressed, the remedies afforded to students and the sanctions applied following disciplinary hearings.

Informing the reporting party of other allegations, complaints and/or reports that refer to the same responding party

In some circumstances, there may be a number of reports from reporting parties about the same responding party. Given the sensitivities and challenges around making a report or disclosure, some reporting parties may be more likely to bring a formal complaint or agree to take part in disciplinary proceedings if they are made aware of other complaints that have been made about the same responding party. Where this is the case it may be possible to share some information about the existence of other similar complaints. To do this, universities will need to consider, on a case-by-case basis and after taking account of all of the specific circumstances and risks of the case, whether it is appropriate to tell reporting parties about the existence of other reporting parties.

In deciding whether to release such information, universities should be aware that they would be releasing personal data relating to the responding party, and possibly (depending on the level of information provided) of other reporting parties. Universities will therefore need to consider the possible impact of such sharing on all parties involved in order to decide whether it is lawful and appropriate in the specific circumstances. It is highly likely that information that is shared will need to be restricted to, for example, there being other reporting parties and the nature of the processes being applied in those other cases. This should not include details of allegations or identities.

Further information is available ['Changing the culture: sharing personal data in harassment cases'](#).

Not using NDAs or confidentiality clauses in settlement agreements

NDAs or confidentiality clauses in settlement agreements are provisions in a contract that seek to prohibit the disclosure of information by a person or the university.

Universities use NDAs for many purposes, including the protection of commercially sensitive information related to university research. NDAs or confidentiality clauses can also serve a useful and legitimate purpose in the employment context as part of both employment contracts and settlement agreements, particularly in relation to business intelligence and competitive advantage.

Although confidentiality clauses do not prevent staff or students from reporting criminal acts to the police, regulatory bodies including the OfS and EHRC, or from making a disclosure under the Public Interest Disclosure Act 1998, the use of NDAs in cases of sexual harassment and misconduct by universities has come under significant scrutiny in recent years. See our [Evidence review](#) for concerns regarding the use of NDAs or confidentiality clauses in settlement agreements with reporting and reported parties.

Alongside being unethical and unacceptable, use of NDAs or confidentiality agreements in cases of sexual misconduct and harassment has the potential to be toxic to the reputation of a university and the entire higher education sector.

In view of these concerns, **we recommend that universities do not use NDAs in cases of sexual misconduct and harassment** and adopt a more positive approach that puts the reporting party at the heart of the complaints process. This will support the creation of a culture where students can raise their concerns with confidence, knowing that they will be supported and listened to and that issues will be addressed.

This position is aligned with [ACAS](#), [EHRC](#), [The 1752 Group](#), [University and College Union](#), and the [#MeTooMovement](#) and [#Can'tBuyMySilence](#), all of whom strongly advocate for the removal of NDAs in cases of sexual harassment. In January 2022, the then Further and Higher Education Minister Michelle Donelan MP launched a campaign, backed by MPs and the global campaign [#Can'tBuyMySilence](#), urging all English universities to sign a pledge not to use NDAs when handling complaints of sexual misconduct, harassment and bullying.

We acknowledge that there are many universities that have either never used NDAs in harassment cases or do not use confidentiality provisions in settlement agreements to prevent the reporting party from telling others or making public statements about the harassment and/or the reporting party saying how the institution has dealt with their case.

In alignment with guidance from ACAS and the EHRC, we also recognise that there may be circumstances where a confidentiality clause may be requested by the reporting party because they want closure and privacy. However, where this is the case, a university is encouraged:

- to consider the ethics of such clauses and be satisfied that they are clear (ie not using ambiguity as a deterrent or to widen the clause)
- have an appropriate justification for using them (ie be prepared to explain or defend the inclusion to a regulator or the court of public opinion).

Further information on NDAs is available in [Annexe H](#).

Sharing information and disclosure of outcomes in relation to the complaints and disciplinary process in accordance with data protection legislation

A key area of concern in addressing staff-to-student sexual misconduct relates to the lack of feedback received by the reporting party on the outcomes of a complaint. This also applies to the provision of information on the outcomes and any sanctions imposed on the responding party following any disciplinary proceedings. This is a concern given the difficulties for a reporting party to come forward and make a report.

Specialists working with victims-survivors of sexual misconduct and harassment both within and outside higher education highlight the importance for victims-survivors to learn about an outcome, including delivery of any redress and remedy to the harm caused.

Making any action taken by the institution visible, such as changes to policy and process, following investigations is also likely to help build trust with the wider staff and student body. However, some universities have shown concern that sharing information on outcomes, and especially sanctions, with reporting parties may breach data protection legislation.

Responding to this, in partnership with Coventry University, we have developed guidance to increase the sector's understanding around data sharing in harassment cases. The guidance states that **data protection legislation does not prevent universities from disclosing data** and sets out the circumstances where it is appropriate and lawful to share personal data in relation to outcomes, and potentially sanctions arising from disciplinary processes. For example, it may be appropriate to inform the reporting party of the sanctions arising from a disciplinary process where the sanction takes the form of a prohibition on the future conduct of the responding party.

To support institutions in deciding whether to share information on outcomes and sanctions, the guidance includes a **data sharing risk and impact assessment**. This **template** guides institutions through the decision-making process, balancing the competing interests of affected individuals, so that universities can arrive at, and document, a decision that is appropriate for the specific circumstances, and fair and balanced for all. This guidance mirrors the latest [guidance from ACAS](#) which states that:

'You should consider on a case-by-case basis whether to tell the person who made the complaint about what disciplinary action, if any, has been taken. You should tell them if you can. You'll need to check your policies and GDPR privacy notices. This is to make sure they allow the person who made the complaint to be told about any disciplinary action taken against the person who harassed them.'

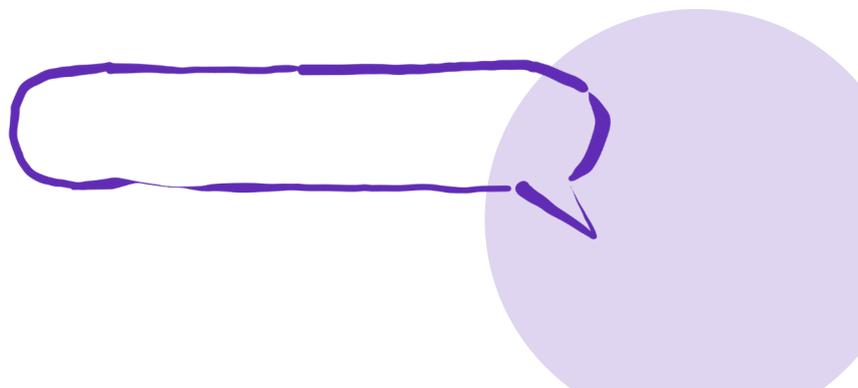
To manage expectations and meet the OfS [statement of expectations](#), universities will wish to make their position clear in their policies and procedures. For further information, see the section on closing complaints on p84 and '[Changing the culture: sharing personal data in harassment cases](#)'.

Historic incidents

It is common in the field of sexual misconduct and harassment for reports to be made significantly after the incident itself. Such cases need careful consideration and a belated report should not be taken as a bar to investigation, although the process may be more challenging. Where appropriate universities may also wish to consider signposting what support services may be available including external support.

Cases where the responding party resigns before an investigation is finished or the process is completed

Whether or not a responding party resigns, **it is good practice for the investigation to proceed**, and where possible, for findings to be reached on the balance of probabilities. Those findings can note the absence of evidence from the member of staff, but their absence should not preclude a finding being made. If the member of staff has already left their employment, then this finding could not be challenged by way of unfair dismissal, so legal risks may be limited. Although in these circumstances the action a university can take is limited, such as it may not be possible to apply sanctions, the important issue is to ensure that the reporting party can obtain an outcome to their complaint and there is a clear record of events.



Movement of responding parties between universities

There are currently no mechanisms in place for institutions to be aware when they are hiring staff members who have been undergoing disciplinary processes in this area.

In view of this, a university should consider the following suggestions:

- Continue investigations into a staff member even if they have left the institution and record that a sexual harassment allegation or investigation has been carried out on the staff member's personnel file. If another institution then asks for a reference for that staff member, information could be given, provided this related to the passing of actual facts and not unsubstantiated allegations. For example, an institution could say that the person in question has had an investigation upheld against them or that the individual left during an active investigation.
- Conduct reference checks, which include allegations or investigations of sexual harassment when recruiting staff. For example, a university could consider a practice where references are required from the current employer (ie an institutional reference) or from employers over a specified time period if there was more than one employer in quick succession. This could include a question on whether there are any live warnings in relation to misconduct including sexual harassment or sexual misconduct (specific issues) or whether there are any current investigations into those issues. Where this is the case, answers should be limited to yes/no without providing details of the allegations, although this could include that the allegations are disputed. Within this context, consideration should also be given to data privacy and retention which may:
 - limit the availability of information
 - limit the ability for it to be lawfully disclosed
 - inform the questions asked, like the time frame (eg asking if someone has ever had a finding against them may not be a question that can be answered positively or negatively).
- Recruitment forms could ask applicants to self-declare on these issues with the proviso that false or misleading information could lead to withdrawal of any offer of employment.
- Universities' HR/people services and specialist equalities lawyers should advise on ways forward for dealing with reference requests received during an investigation, including whether it is appropriate to hold off providing references until investigations are completed.
- In the higher education sector, a request for a reference may be made to an academic referee. Where this is the case, issues of sexual harassment or misconduct may not be picked up. Following a landmark inquiry into the University of

Strathclyde's handling of past complaints of sexual misconduct against a former staff member, the QC's report recommended that 'any academic employee of the University who proposes in that capacity to give an academic reference for another current or former employee of the University should inform the University HR department of that intention and provide that department with a copy of the intended reference, and should be permitted to provide that reference as an employee of the University only if the HR department are content with its terms'.

- If a staff member has been engaged in regulated activity, there may be an obligation to report to the [Disclosure and Barring Service](#). Professional standards and regulatory bodies may also have their own rules or requirements where the staff member is also a member of a profession (eg a medic).

Malicious or vexatious complaints

Universities may wish to state within their complaints policies and codes of conduct that vexatious or malicious complaints may be subject to disciplinary (or as relevant other, eg fitness to practise or fitness to study) process. When doing this, consideration should be given to how this information is presented in a policy to avoid discouraging reporting parties or third parties to come forward. Thus, it should be clear to students and staff that they will not face any detriment, including disciplinary action, where complaints and reports are made in good faith, whether or not they are upheld. It may be evident at the start of a matter (without the need for any investigation) that an allegation has been made maliciously with the result that the university declines to consider it further. Alternatively, depending on the facts, it may be later on in the process that evidence emerges that the allegation has been made maliciously.

3.5 Monitor, review and evaluate practices

Ensure a cycle of continuous improvement including feedback from those accessing the reporting and complaints and disciplinary processes

In England, Scotland and Wales, once the university's complaints procedures have been completed, students have the right to ask the OIA or SPSO to review their case. This process can be supported by providing information about the circumstances in which decisions can be challenged, the timescales for doing so, and information on the external complaints process. Reporting and responding parties should both receive information regarding internal review and appeals processes to which they may have recourse. Note that as a matter of consumer law, students should be informed of relevant external complaints schemes.

Valuable feedback is obtained through the consideration and resolution of complaints and from requesting feedback on student and staff satisfaction of the complaints and other internal processes. By doing this, universities can determine whether a process remains fit for purpose and identify opportunities for improvement. Universities should also consider equality impact and data protection impact assessments of procedures and systems.

Share practice and learning internally and across the sector to learn and improve from others

As evidence of evaluations of the impact of interventions in this area is limited, universities are encouraged to share what has worked to date. To support this process, universities are **invited to submit identified examples of initiatives and approaches that have worked** to UUK so that these can be collated and disseminated, and the sector can continue to learn from experience.

Data

Overview

Valid and reliable statistical data and information is fundamental to establishing baselines and providing an evidence base to underpin an integrated organisation-wide approach to improvement and evaluating progress. Gathering data and information on staff-to-student sexual misconduct will support institutions to:

- inform the development of policy and practice, including the targeting of interventions and initiatives
- monitor the effectiveness of policies and processes
- demonstrate accountability and commitment to addressing staff-to-student sexual misconduct.

Data is also required in implementation and evaluation of measures to increase the likelihood of reporting and identifying and monitoring improvements in organisational culture, environment and processes that are key to prevention, as well as addressing issues relevant to staff-to-student sexual misconduct and harassment more generally.

A failure to maintain accurate data on recorded incidents of harassment could also contravene universities' obligations under the Public Sector Equality Duty (PSED) to eliminate harassment and foster good relations.

Building trust in the institution requires transparency. One way to do this is to **publish anonymised data on numbers and outcomes of complaints of staff-to-student sexual misconduct and, where possible, outcomes and sanctions relating to any disciplinary action taken**. This demonstrates institutional accountability and is an important mechanism for informing students, staff and governing bodies that this is an area that the university takes seriously. This can also be useful when responding to freedom of information and media requests in this area.

With greater transparency also comes greater responsibility. Universities require a strategy to ensure that trends or other information gathered through the collection of data are proactively dealt with, along with a communications strategy that sets out why the university is taking action.

Although the collection of data on staff-to-student sexual misconduct is critical, universities need to be minded to the challenges with gathering, retaining and publishing data in this area:

- **The range of incidents and resolutions may not always be visible in current data recording mechanisms due to the general low levels of reporting of staff-to-student sexual misconduct.** This requires the establishment of a clear structure and taxonomy of data to be collected at the outset to ensure that incidents of staff-to-student sexual misconduct are not hidden within other complaint or disciplinary information.
- **Across large and complex organisations, cultures and practice can vary significantly** and incidents may not always be recognised or defined as staff-to-student sexual misconduct, representing a significant information gap for universities. Establishing and communicating clear and accessible definitions of staff-to-student sexual misconduct should help address this.
- **Care is required when publishing information on an incident that falls short of any criminal offence.** When this occurs, universities must ensure that various rights are balanced when disclosing information about individuals.
- **Publishing a document with data and information on incidents of sexual misconduct can raise concerns among governing bodies, the wider university community and others.** To guard against this, when data is published it should include information on the rationale for publishing the data and a narrative that makes it clear how the institution is approaching the issue. For example, an increase in the number of disclosures and incidents could represent a positive development because more students feel confident to come forward and seek institutional support.
- **Ensuring that data on complaints resolved informally is recorded, as well as any data or information at the formal and review stages, provides the university with a more accurate set of data for analysis and management reporting.** Complaints should be recorded in sufficient, proportionate detail, although personal information about individual students should be removed and care taken to ensure that students are not identifiable. Where it is not possible to record information about a complaint without identifying the student (eg because the cohort is very small), care should be taken to ensure that only the bare minimum of information is recorded.
- **Creating anonymised information is a processing activity in its own right.** Universities need to ensure that data collected is actually anonymous from a data protection perspective and that information about this processing is included in relevant data privacy notices.

Recommendation 4: Data

Universities should adopt a systematic approach to collecting and retaining data on incidents of staff-to-student sexual misconduct, including:

- (a) numbers of actual reports and/or complaints including those resolved informally and anonymous reports; and
- (b) anonymised data on reports and/or complaints and action taken to respond to emerging trends.

This will support universities to identify systemic problems and to understand both the nature and scale of staff-to-student sexual misconduct, and the effectiveness of institutional support, policies and practices in responding to these.

Supporting actions

4.1 Establish a centralised approach to collecting, recording and storing anonymised data on staff-to-student sexual misconduct, including incidents resolved informally

As with other forms of harassment, good practice requires a centralised approach to collecting, recording and storing anonymised data on incidents of sexual misconduct and harassment, including those resolved informally. This will avoid information being held only locally where it may be subject to local interpretation and may not feed into the necessary organisation-wide approach. For universities without centralised complaints systems the different reporting channels available to students may mean that complaints are resolved informally without there being any institutional record of the complaint. This can make it difficult to accurately monitor the volume and nature of complaints.

Centralised records should be held in accordance with good practice in data retention and should be properly anonymised.

Data should be collected across the whole process including reporting the incident, the outcome of the complaint and student and staff satisfaction with complaints handling (EHRC, 2019b)¹. Data on how satisfied parties are with the process will support universities to determine whether processes are fit for purpose and improving over time.

Consideration could also be given to collecting data on protected characteristics. This will allow the impact of intersectionality to be considered and help identity issues and emerging trends as well as facilitating analysis in relation to the PSED. Data on protected characteristics may be difficult to collect unless this data is routinely asked for when a

report is made and may deter some people from reporting, particularly those that wish to remain anonymous.

It is expected that institutions will gather, retain and utilise the anonymised data and information necessary to process and review formal complaints and reports. This data should be aggregated at levels appropriate to the institutional structure, including at whole-institution level. Concerns and complaints should be recorded in sufficient, proportionate detail.

Data collected for the purposes of analysing trends should also be anonymised wherever possible. Any personal information about individual students and staff should be processed in line with good complaints practice and GDPR requirements.

Information collected for statistical purposes must be held separately from live cases and should not be connected to any complaint or disciplinary file.

Anonymising data means making sure that no individual can be identified (or re-identified) from the information retained, and that no references (eg pseudonyms or reference numbers) can be used to connect data collected back to individuals. Pseudonymised references (eg case numbers) should not be retained alongside this statistical information.

Reporting produced on the basis of retained data should be at a sufficient level of aggregation to anonymise individuals. Where individuals are identifiable in the underpinning data, eg where there is such a small number of incidents that the individuals could reasonably be identified, the retention of this data must be proportionate and lawful, as this data will remain personal data and subject to data protection legislation.

Data gathering mechanisms must enable different cultures within institutions to be identified reflecting the diversity of faculties, schools, departments and services where staff-to-student sexual misconduct may take place.

Where data shows that incidents are concentrated within a specific faculty or department, an institution may find it helpful to engage an independent figure who is external to the department to examine incidents and identify underlying causes or commonalities.

Gathering survey data at appropriate intervals for internal use can allow institutions to locate areas where there are concerns about conduct that may not be formally reported. This will also enable universities to identify risk factors that can be further explored alongside opportunities for prevention.

4.2 Adopt and use appropriate methods for gathering and analysing data

Institutions use a number of tools to understand the academic, social and personal experiences of students throughout their higher education experience. It is equally important that institutions understand students' experience of staff-to-student sexual misconduct beyond individual cases raised through formal complaints and reports. There are a range of approaches to gathering data and information deployed in the sector and internationally which UK universities can draw on. These data and information sources should be aggregated at levels appropriate to the institutional structure, including at whole-institution level.

The data collection tool used must be suitable for the environment in which it is being deployed and for the frequency with which data is required. For example, gathering data at appropriate intervals for internal use can enable an institution to locate areas where there may be concerns about conduct which may not have been formally reported, and identify indicators in the environment that may be conducive to harassment. Consideration of audience, priority areas, and length of data retention are also required.

A number of survey tools have been developed and can be used by institutions as below. Institutions should be aware of their data protection obligations when procuring tools to collect data of this nature and ensure that appropriate review, procurement and contract processes are in place where data will be processed or hosted by a third party.

Survey tools

- Questions on regular surveys of staff and students, including adopting the voluntary questions on student experience from the [National Student Survey](#) regarding experiences of harassment, will help to build a profile of staff-to-student sexual misconduct within an institution and an understanding of the extent to which formal reporting is capturing this.
- The [ARC3](#) survey is a US-based survey instrument that was used in the [National Academy of Sciences report](#) for institutional level data on staff sexual misconduct. In the US, a number of universities have customised ARC3 for their context.
- The 1752 Group can also make available the survey instrument it devised for NUS (2018). The questions on professional boundaries in higher education from this survey developed by The 1752 Group can be used as a standalone instrument to gather data on students' attitudes.⁹

⁹ Download the professional boundaries survey ([link](#)).

- In partnership with some academics, we have designed a questionnaire that can be used by universities to investigate students' experiences of harassment while studying at university. The tool will be available to all universities in the coming months to customise according to their own student cohort and context.

4.3 Recognise the uses and limitations of anonymous reports

Universities are encouraged to offer an option for reporting parties to be able to make anonymous disclosures or reports. From a victim-survivor perspective, this can provide the first steps on a journey to making a disclosure and seeking support.

In this section, we focus on the importance of being clear about the limits of what can be done with anonymous reports:

- Anonymous reports should not be seen as an indication of specific levels of prevalence of sexual misconduct or a substitute for taking other actions to encourage and support reporting.
- Universities should ensure that data collected is actually anonymous, from the perspective of data protection legislation. To achieve this, it should not be (reasonably) possible to re-identify an individual from the information collected, or by combining that information with other information that might be available (including personal knowledge of individuals).
- Where anonymous data is collected directly, such as through free text boxes, it is important that universities ensure that mechanisms are in place so that individuals cannot be identified. If the university anonymises personal data submitted in an anonymous report this is classified as a processing activity under Data Protection legislation and will need to be covered in the university's privacy notices.

For further information on anonymous reporting, see the [insights section of the Culture Shift website](#), [University of York on how to handle anonymous reports](#) and ['Changing the culture: sharing personal data in harassment cases'](#).

4.4 Develop reports for management on the prevalence of staff-to-student sexual harassment, including trend analysis and periodic survey data

Accurate reporting of data and trends will enable the university to:

- provide reports to senior leaders and governing bodies who can use the evidence to evaluate risks to students, staff and the university as part of their governance, trustee and management duties, due diligence processes and obligations under the PSED. This could result in inclusion in an institution's risk register
- assess emerging concerns and consider the need for awareness raising or targeted interventions
- enhance institutional learning regarding the effectiveness of strategies and interventions, and help resolve the lack of robust evidence of 'what works' in this area.

The provision of data should include a regular report to the governing body on at least an annual basis.

Several universities also publish data on numbers and outcomes of sexual misconduct complaints including types of disciplinary action taken, such as [University College London](#), [Goldsmiths, University of London](#), [University of Warwick](#), [University of Arts London](#), and [Durham University](#). As in these examples, it will be necessary to aggregate numbers under five to assure anonymity, and this activity should be included in any data protection or privacy notice (an opportunity for individuals to object may be required, depending on the nature of the information contained in the data).

Some institutions have gone further, with [Durham University](#), [UCL](#) and [University of Warwick](#) reporting on the numbers of reports, outcomes and sanctions for sexual misconduct to the wider university community. This sends out a powerful message of transparency and accountability. Unsurprisingly, this can result in much higher reporting rates.

Alongside such data reporting, and to enhance transparency but without exposing individuals, institutions should produce a narrative that makes it clear how they approach this issue, including where their role may be in the provision of support rather than instigating or managing a formal process. The broad types of incidents and actions that fall within the institution's approach should be clearly stated and defined.

Institutions should seek to collect and publish anonymised data regarding formal complaints and reports at an appropriate level of aggregation and alongside an associated public narrative. A senior executive member of staff should be identified to oversee this area and should be responsible for ensuring the consideration of the data through institutional governance structures including the senior executive team and board of governors.

The senior responsible officer should be accessible to staff and students.

There should also be a clear line of sight for staff and students regarding the accountability and governance of data and how they will be used by the institution, with contacts clearly signposted in relevant policies and on data reporting webpages.

Institutions should be transparent about their processes for considering data in formal complaints. The use or creation of data should be included in any data protection/privacy notice. See [4.9 on privacy notices](#).

4.5 Employ appropriate methods to maximise stakeholder engagement and to gather lived experience

Gathering data and information on students' experiences can help to understand whether, how and why students are using existing reporting mechanisms, as well as understanding the responses given in quantitative surveys. This includes, firstly, students who have been subjected to staff-to-student sexual misconduct and may also have experienced the reporting process, as well as the wider student population.

In engaging students who have been subjected to staff sexual misconduct, sensitive data gathering methods are required.

Mechanisms that institutions may wish to explore to complement wider data gathering include:

- working with specialist organisations dedicated to tackling violence against women and girls such as [Rape Crisis](#) or [Womens' Aid](#) to set up survivor groups within institutions. Such groups may be willing to give feedback on improving the experience of students who are survivors across the institution
- post-complaint/report interviews with students who should be afforded the opportunity to suggest how to improve the reporting experience
- department or school-level interventions that contribute to increasing trust and reporting.

As noted above, staff sexual misconduct may be present at the level of the department or research group. It is often the case that concerns are known about at department level or among other students, even if those experiencing staff sexual misconduct do not report until after they graduate, if they report at all. The institution-wide data gathering may identify issues at the level of the department, school or research group. Once such issues are identified, climate surveys can be carried out within the academic or professional services department concerned. Climate surveys should be carried out by an independent party and should include options for confidential discussion and raising of concerns.

Such independent parties should be appointed in accordance with data protection legislation, and with data protection as a clear obligation, by default and by design (see p97 for examples of survey tools). In engaging the wider student population, focus group discussions of survey instruments, or gathering data on students' attitudes to and knowledge of complaints and reporting processes, may be helpful. This also provides a valuable opportunity to better understand the impact of intersectionality of characteristics on experiences of sexual misconduct.

Universities may also find it helpful to discuss the findings of reported incidents with trade and students' unions, who can match these with any trends observed in their casework within the organisation or wider regional or national pictures.

Together with establishing data-sharing protocols, including with the police and local authorities, regulatory bodies (in respect of regulated courses), collaborative partners and placement providers (where necessary and permitted by data protection legislation), these engagements will enable the institution to capture wider trends and incidents that may affect students and staff away from campus.

4.6 Improve accuracy and consistency in data collection

There are currently no statutory requirements for institutions to publish data on numbers and outcomes of anonymised complaints. However, we **recommend more open sharing of reporting rates, and outcomes of cases**, as there is a need for better accuracy and consistency in data collection to redress some of the knowledge gaps.

Resource should therefore be directed to working at an institutional level to develop, implement, evaluate and continuously improve the policies, practices and data relating to sexual misconduct in a bid to improve the culture across the sector. Reporting prevalence data to governing bodies will support this.

4.7 Capture data on disclosures in addition to formal complaints and reports

Data on formal complaints of staff-to-student sexual misconduct only provides a partial picture and is not sufficient to inform institutional practice in prevention and intervention effectively. This is because most experiences of staff-to-student sexual misconduct do not lead to a formal complaint and therefore result in a lower rate of reporting and recording. Part of the explanation for low levels of reporting is attributed to the issue not being raised directly or because it is 'resolved' informally.

Mechanisms should be developed that enable universities to capture anonymised data relating to disclosures in addition to formal complaints and reports. For example, Durham University monitors disclosures given to any staff within the university. This takes place by staff filling out a form about the disclosure, without naming the student, when they receive a disclosure and these are submitted to the lead sexual violence and misconduct officer for collation and reporting.

The advantages of capturing data relating to incidents disclosed by students to members of staff include:

- students being more likely to be signposted to appropriate support mechanisms
- students who are signposted to appropriate support being more likely to go on to make a formal report
- enabling identification of the reasons for disclosures not being reported formally
- informing intelligence on prevalence 'hotspots' leading to more informed planning of resource allocation.

There is, however, a risk that students may feel pressured to report formally, which takes away control and choice from survivors. As mentioned previously, trauma-informed practice highlights the importance of ensuring that survivors are given control and choice in the process of disclosing and reporting, and earlier in this guidance we have identified where new structures or procedures may need to be developed to enable such informal reporting to take place. Notwithstanding this, universities will also need to be aware that there may be situations when an incident comes to the attention of a university, eg because it is reported by someone else or observed by another member of staff, where the university believes it has to act to fulfil its duty of care.

Monitoring disclosures allows the gap between disclosures and formal reports and complaints to be identified. Strategies can then be put in place to address areas of the institution where there is a large gap between formal reporting and disclosures. In addition, monitoring disclosures can ensure that staff are signposting students to appropriate support mechanisms.

4.8 Develop an action plan to respond to and manage issues arising from trends or anomalies identified through this data collection.

The focus of this action plan will depend on the specific issues identified, but could be based on the principles in this guidance.

4.9 Update privacy policies to reflect that anonymised data will be used in this way.

See [Changing the Culture: sharing personal data in harassment cases.](#)

Annexe A: Acknowledgements

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Annexe B: Guiding principles

This guidance follows a number of **foundational principles** set out below which universities are strongly encouraged to follow.

1. Universities have a legal and ethical responsibility for the safety and wellbeing of students and staff

Universities owe legal and regulatory duties to both students and staff including under contract (and, for students, consumer) law, common law duty of care and health and safety legislation, equality and data protection legislation, and (for most universities but, depending on the circumstances, not some private higher education institutions) natural justice and human rights legislation. The PSED under the Equality Act will also be relevant for most universities.

2. Universities are diverse and autonomous, and need to use their own approaches in carrying out this guidance

Universities are encouraged to use this guidance as a portfolio of suggestions that can be used to dip into when required.

3. Addressing staff-to-student sexual misconduct should be cited within a broader programme of work to tackle institutional inequalities

Staff-to-student sexual misconduct, like other forms of sexual misconduct, is both a cause and a consequence of inequality and power differences, and particular situational contexts pertaining to cultures within universities and parts of universities.

Addressing staff-to-student sexual misconduct is only one aspect of a whole-institution approach and, as such, this guidance should be considered within a wider body of evidence and recommendations relating to staff-to-staff, student-to-student and student-to-staff misconduct.

4. Tackling staff-to-student sexual misconduct is complicated and challenging. To do so requires change at individual, organisational, community and societal levels

Sexual harassment is **multi-faceted and involves interaction between personal and organisational issues**.

At the **organisational level**, addressing staff-to-student sexual misconduct requires establishing an environment and culture that prevent this form of misconduct and are conducive to supporting survivors. This involves tackling gender and other inequalities, and forms of discrimination such as race, class, homophobia and transphobia, that can create vulnerability to harassment and violence. Measures can include review of institutional systems, structures, accountabilities, working practices, career progression and reward systems.

At a **community level**, tackling sexual harassment requires staff and students, and institutional or collaborative partners and placement providers, to work together to create a safer, more positive and open culture and environment. This includes fostering greater transparency, accountability, cooperation and respect in the behaviour and professionalism demanded between staff and students, as well as working with local partners who are likely to have an important role in preventing and responding to gender-based harassment and violence.

At an **individual level**, tackling this issue refers to taking responsibility for learning and being part of the solution. This involves participating in training and culture change work to learn how staff-to-student sexual misconduct occurs and gaining confidence and skills in becoming an active bystander.

These requirements at organisational, community and individual levels are not mutually exclusive; action to address staff-to-student sexual misconduct requires action at all levels, along with strategic and operational leadership, and robust governance to ensure a joined-up approach between levels.

5. Collective responsibility and a whole university response within the university community is needed to tackle this problem

Everyone in the university community has a responsibility for tackling this agenda. Responsibility and accountability apply at all levels of the organisation and must include active leadership from those in senior roles.

The onus for responding to incidents of staff-to-student sexual misconduct must not be left to the individuals involved or their close colleagues and contacts, but should be addressed through clear systems and processes that offer well-developed support mechanisms.

Engaging with student representative bodies, trade unions and staff associations, and formal networks such as women's and LGBTQ+ groups, as well as those with lived experience of staff-to-student sexual misconduct, is vital in developing this sense of collective ownership.

Annexe C: Information sources

- Advisory, Conciliation and Arbitration Service (ACAS) (2015) [Code of practice on disciplinary and grievance procedures](#)
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- Office of the Independent Adjudicator (OIA) (2016) [The good practice framework: handling student complaints and academic appeals](#)
- OIA (2018) [The good practice framework: disciplinary procedures](#)
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Annexe D: Managing complaints

Information on frameworks for handling student complaints in higher education is set out below:

- [Office of the Independent Adjudicator for Higher Education \(OIA\) in England and Wales](#),
- [Scottish Public Services Ombudsman \(SPSO\)](#)
- [Northern Ireland Public Services Ombudsman \(NIPSO\)](#)

Where a complaint refers to misconduct that could also constitute a criminal offence, universities should refer to the UUK/Pinsent Masons [Guidance for higher education institutions: how to handle alleged student misconduct which may also constitute a criminal offence](#). This guidance refers to all forms of misconduct. In partnership with Pinsent Masons and Nicola Bradfield (Coventry University), we are reviewing the implementation of the guidance. Lessons learned will be shared across the sector. The guidance is also under review by Universities Scotland in relation to the legal and policy context in Scotland.

As employers, universities in Great Britain should follow the Advisory, Conciliation and Arbitration Service (ACAS) Codes of Practice on good employment relations practice in terms of complaints relating to bullying, harassment or discrimination. This requires that complaints processes are clear easy to navigate and well signposted. This includes the [code of practice on disciplinary and grievance](#)

[procedures and the non-statutory guidance](#) which accompanies the code.

The code sets out the minimum procedures an employer should follow in handling these issues. While it is not a freestanding legal obligation to follow the code, if a case reaches employment tribunal, it will take into account the procedure that has been followed and may apply an uplift to any compensation awarded if the employer has not complied with the ACAS code.

Universities should also refer to EHRC's [Sexual harassment and harassment at work: technical guidance](#) which sets out information on preventing and responding to harassment, including informal and formal resolution, conducting investigations and reporting outcomes and data protection. Although this relates to sexual harassment in the workplace, the core principles are also relevant to a university context.

In Northern Ireland, the NIPSO has not developed any specific guidance for higher education, however, under the Criminal Law Act 1967 (Northern Ireland) Section 5 universities have a duty in terms of reporting information to the police that lead to a conviction. In light of this, in 2020 the Attorney General issued further [guidance notes](#) on the Public Prosecution Service on how they might handle a situation where a sexual offence becomes known which a body or organisation chose not to report.

The Labour Relations Agency (LRA) has published [codes of practice on disciplinary and grievance procedures](#).

These frameworks are clear on the importance of understanding what outcome or redress is being sought by an individual raising a complaint. This is an important consideration for ensuring that those who do raise a complaint feel a sense of justice. Universities will also be aware that not everyone will be able to articulate the redress they would like; rather the emphasis may be on ensuring that the university is aware of the issue/behaviour; acknowledging it and, where appropriate, acting upon it.

Annexe E: Terms

An explanation of the terms used in this guidance is set out below.

Codes of professional behaviour and conduct

These codes are used to set out requirements of professional behaviours; for example, in interactions between staff and students. Codes can define behaviour that breaches professional standards or crosses or violates boundaries between professional and personal relationships such as:

- meetings between staff and students out of hours, in off-site locations or combined with alcohol
- disclosure of irrelevant and/or inappropriate sensitive personal information by members of staff
- pressing for disclosure by members of staff of irrelevant and/or inappropriate personal information.

Having codes of professional behaviour and conduct in place can reinforce the creation of a culture of professional behaviour and respect for professional boundaries. Such codes increase and improve the focus on the context and circumstances in which sexual misconduct is likely to occur. The presence of and reference to a code can also enable intervention and action that pre-empts incidents or complaints of staff-to-student sexual misconduct.

In social work, findings show that it is not possible to make determinations on appropriate boundaries for every possible instance in advance, and therefore as well as codes of conduct it is important to **build an ethically sensitive workforce.**

The [Changing University Cultures \(CHUCL\)](#) collective's work on this focuses on the need for an ethically sensitive workplace – foregrounding values of self-awareness, honesty, empathy and action).

In higher education settings, this would involve supporting staff in developing a reflexive awareness around boundary and power issues and including training on professional boundaries in the Postgraduate Certificate in Teaching and Learning in Higher Education.

Conducive context

The foundations, conditions or environment that can enable violence against women.

Allegations, disclosures, reports and complaints

Terminologies differ across universities, although there is usually a distinction between disclosures, reports and complaints.

- Disclosures often refer to someone telling someone in the university about their experience of sexual misconduct. Students who disclose may only wish to access support and notify the university of an incident, but not wish to make a formal complaint or for the university to take any further action.
- Reports often refer to the sharing of information with someone in the university about an incident of sexual misconduct experienced by that individual to initiate action by the university.
- A complaint made by a student under the student complaints procedure about a member of staff will usually provide the student with the entitlements afforded by the procedure including to a decision, redress (where the complaint is partially or wholly upheld) and an appeal, and (when the process is exhausted) to a completion of procedures letter.

- Sometimes when a matter is addressed under an internal student or staff complaint or disciplinary procedure the language of 'allegation' and 'alleged' may be used. This reflects the point that until findings of fact are made on the balance of probabilities, the suspected conduct of the member of staff (in this case) is just that: suspected or alleged.

Students and staff understanding how these terms are used by the university and the implications of each will ensure expectations are carefully managed.

Often traditional students' complaints procedures provide for complaints made against the university (including about staff) and not complaints about other students. Student disciplinary procedures deal with allegations of misconduct made against students but are not complaints processes.

Consent

Universities should be mindful when, for example, drafting codes of conduct, formulating and investigating disciplinary charges, and implementing awareness raising training and other initiatives, of the distinction between 'consent' as a term used and defined in criminal sexual offences legislation and 'unwanted' conduct as the term used in the definition of harassment and sexual harassment under section 26 of the Equality Act 2010. Universities should ensure that they use the terms in the appropriate context and do not conflate them.

Intersectionality

Intersectionality is a term that has been widely adopted in the UK. It recognises that people's identities and social positions are shaped by several factors and/or characteristics that create and co-create unique sets of circumstances, experiences and perspectives. Intersectionality goes beyond identity to highlight the social, economic and political structures that produce discrimination for groups at the margins of the protected characteristics. For example, bisexual women in particular are the largest demographic to report experiencing sexual misconduct. Understanding this allows universities to take a more targeted approach to educating students of how to recognise sexual misconduct happening to them or others, and what to do about this.

Professional boundaries

The blurring of boundaries is an important factor in the context in which staff-to-student sexual misconduct takes place. In some disciplines and subject fields, practical sessions, work placements, one-to-one tuition, field visits and conferences increase the proximity of staff and students outside formal classroom settings. Misperceptions that different norms of behaviour and standards of professionalism may exist in such settings need to be acknowledged and addressed.

Moreover, the expansion of higher education means an individual may be both a staff member and a student. It is essential that this guidance is applied carefully in situations where, for example, a postgraduate student may be employed

as a staff member (as a teaching or research assistant) during their studies.

These complexities are exacerbated because students are frequently uncertain about what constitutes appropriate professional boundaries between staff and students. This lack of clarity means that students are not always aware when behaviours or actions are at odds with basic professional standards. Uncertainty can form a significant barrier to reporting, and can result in student understandings of what constitutes sexual misconduct only emerging after inappropriate contact has been experienced.

Evidence on professional boundaries and conduct within other professions emphasises that it is important to focus on learning how to exercise ethical judgement within professional situations, rather than having a list of what is and is not allowed. This highlights the importance of training in relation to professional boundaries, and developing this as part of a wider conversation with staff and students within an institution.

It is critical that students are clear what behaviours are not appropriate between staff and students. These requirements and actions should be set out in clear policies and procedures, and communicated across the university community.

Guidance as to what boundaries are appropriate may vary according to the particular situation of each institution, discipline, level of study or department. It is also likely that different groups will have different levels of comfort or discomfort with certain boundaries. Therefore, engaging with students about behaviours is critical, especially with students who have experienced staff-to-student sexual misconduct and those groups who are more likely to be subject to sexual misconduct.

Guidance from other sectors (eg social work) emphasises that professional boundaries are not about having rigid codes of behaviour (although clear guidance can help), but about having ongoing ethical awareness, as well as a shared consensus across a team or department. These become mechanisms to refer to and indicate acceptable cultures. They can also help with reporting because it becomes clear if behaviour violates agreed codes of conduct. To build a shared ethical sense of boundaries, training and awareness raising is important. A clinic for professional boundaries can offer training, or discussions can be opened up within staff meetings to find out where consensus exists.

Referral pathways

Referral pathways show reporting parties (and others who may receive a disclosure) how to get in touch with support services, an individual or organisation.

Reporting

Making a report is the process through which the reporting party informs the university that they have been subjected to or witnessed behaviour that they consider unacceptable. A report may trigger a complaint, either informally or formally, but may not necessarily lead to an investigation or disciplinary process if the reporting party chooses not to pursue the report further after having drawn the issue to their university's attention, unless the university decides an investigation is required due to the nature of the incident and the potential risk to other members of the university community.

Reporting party

A student who has made a disclosure, report or complaint against a member of staff (in this case). There will also be occasions when a third party, such as another student or staff member, student union representative or an external party, may witness or become aware of an incident and may make a report to the university.

Responding party

The staff member (in this case) who has a disclosure or report made against them.

Staff

Any person that is engaged (not necessarily employed) by the university and interacts with students.

Staff-to-student sexual misconduct

At institutional level, it is good practice to consult as widely as possible and to use plain English when drafting definitions and to avoid using legal terminology. This will ensure definitions are readily understandable and that the university does not inadvertently stray into territory that is the sole domain of agencies such as the police or the criminal justice system.

The academic environment, which is often characterised by strong hierarchies and small globally interconnected specialised communities, can act as an enabling environment for sexual misconduct to occur and can hamper reporting and redress. This implies that addressing staff-to-student sexual misconduct requires an understanding of the context in which harassment takes place, including an understanding of power relations and how these manifest in cases of sexual misconduct, as well as of interventions designed to deliver change in behaviours and attitudes.

This guidance does not delve into the complexity of unequal power relationships, but rather shows awareness of how power differences can impact staff-to-student sexual misconduct. There may be power differentials between mature adult students and staff they work with, who may be younger than them; postgraduate researchers and their supervisors; or staff members who are also students (eg doing a PhD) and other staff. Unequal power relationships could also arise as a result of gender and other structural inequalities in higher education.

Power imbalances can:

- **occur at an interpersonal level**, eg staff-student relationships. This includes hierarchical teaching and learning relationships where the student relies on an academic staff member for their education and academic awards. This relationship is particularly significant for postgraduate students in terms of the supervisory relationship between staff and student. Power imbalances can also occur within the context of personal/close relationships and in cases of mental health vulnerability
- **be created through the structures of inequalities within higher education**. These consist of how wider inequalities such as race, class and gender are reflected or reinforced within higher education institutional structures including teaching and learning.

Third party

The reporting party may not necessarily be the person who has experienced the harassment, but a third party who has witnessed or who is aware of the sexual misconduct. A staff member may also report an incident as a third party.

Whether it is a third party that makes the report may be an important consideration in some cases – for example, where the student who is the subject of a staff member’s misconduct did not want to disclose the incident but who may now, as a result of someone else’s report, find themselves being approached, and where concerns may arise in respect of the student’s wellbeing, particularly where the incident has resulted in trauma for the student.

Universities should inform students if a third party reporting centre is on a university campus, so they know where to go should they witness an incident.

Zero tolerance culture

Creating a culture of ‘zero tolerance’ has been contested due to concerns that this can close conversations down and may perversely reduce reporting, given the reality is likely to be different and thus the claim can appear to lack community credibility. More helpful language may include a recognition of the need to continually strive to make environments safe for all members of the university community, along with a commitment to a culture of gender equality.

Annexe F: Policy template to address staff-to-student sexual misconduct

Introduction

Define the purpose of the policy:

- explain required standards of behaviour, including what is not acceptable or appropriate, supported by examples. To include misuses of power by staff (specify) especially in their relationships with staff and students
- demonstrate that reports and complaints will be taken seriously, addressed promptly and effectively with signposting/referencing to relevant procedures
- encourage prompt reporting of issues
- set up roles and responsibilities of those involved
- demonstrate how the policy fits in relation to other policies and procedures and hyperlinks to associated documents
- support services, internal and external to the university

Scope

- the staff that are affected
- what happens when students are also staff

Roles and responsibilities

- define roles and responsibilities of staff, students, managers, reporting party and responding party (alternatively universities may wish to consider having a separate section on entitlements for reporting and responding party)

Vision statement

- statement of zero tolerance or however the university expresses this for any form of sexual misconduct
- statement of the institution's values, eg importance of treating others with dignity and respect; active commitment to eradicating and robustly tackling sexual misconduct; required standards of behaviour, including dealings between staff and students and behaviour that breaches professional standards or crosses or violates boundaries between professional and personal relationships
- all illustrated by examples

Definitions

- explain terms such as staff-to-student sexual misconduct, professional boundaries, close personal relationships, disclosures, reports, power, power imbalance, control, abuse and coercion, consent etc (noting these are important reference points for investigations and disciplinary decisions)

Support

- signpost sources of support and advice, internal and external

Options for reporting

- set out options for making a disclosure, report or complaint and access to support
- set out options for how concerned third parties can raise issues, along with a description of how these will be dealt with (eg environmental investigations)
- where relevant, signpost to anonymous reporting tools (eg online reporting)

Procedure following a disclosure or report

- set out informal measures to address unwanted behaviour, recognising that in cases of staff-to-student sexual misconduct this may not be appropriate
- outline difference between formal and informal report or complaint, and include reference to the fact that the reporting party will not be disadvantaged by raising a report or complaint
- once a formal report or complaint is raised, set out which policies and procedures will be followed, from the beginning to the end of the process, including reference to the time periods involved and the support available at each stage of the process. This should acknowledge that the university may change between procedures as a matter develops or in light of new facts/circumstances
- include how the student complaint process links to the staff disciplinary process
- acknowledge that even if someone who makes a report does not wish to raise a formal complaint, the university may still act depending on the information disclosed and the level of risk identified, and in light of its legal and regulatory obligations

Student request for review/appeal

- be clear about information on data processing, data sharing and the aggregation of data at each stage of the process, including investigations and the disciplinary panel/hearing, if this is required, both in respect of the reporting and responding parties
- include how appropriate independence will be achieved – particularly when individuals are dependent on staff or the staff involved are senior and/or are in positions of power
- identify exceptions, such as safeguarding issues or risk to health and safety or where information is so serious that action will be taken
- provide the reporting party with information on outcomes of the report or complaint, and the outcomes and sanctions of a disciplinary process, if this is initiated, where necessary in accordance with data protection legislation
- explain the review process for the reporting party if they are dissatisfied with the outcome of the investigation (if procedures allow)

The policy could be accompanied with simple to follow infographics highlighting the steps for managing and responding to a report.

Annexe G: Risk assessment tools

A holistic approach to risk requires assessment of the:

- risk to the reporting and responding parties
- risk to the wider student and staff university community
- reputational risk to the institution
- financial risk to the institution resulting from adverse publicity or litigation

A risk management framework will ensure that decisions are risk-based and not taken unilaterally. Some universities have developed their own systems and processes to identify and manage risk. Alongside the risk assessment in Appendix 3 of [UUK/Pinsent Mason \(2016\)](#), a number of the more commonly used tools are set out below.

1. LimeCulture Sexual misconduct risk and needs assessment

LimeCulture, in partnership with higher education professional services staff and front-line practitioners, has developed a tool for use by universities for cases where sexual misconduct is reported by students or staff. The [tool](#) is available online free to use. The tool consists of a three-stage risk assessment process that includes an assessment with the reporting party, the

responding party and an assessment led by a sexual misconduct risk management panel in a university. The tool offers different options for scoring or grading level of risk. Further information is available on the [LimeCulture website](#). LimeCulture, along with other sexual violence specialists including SafeLives, highlights that risk assessment requires professional judgement and it is essential that any staff using a risk assessment tool should be trained appropriately.

2. SafeLives DASH Risk Checklist

The Domestic Abuse Stalking and Harassment Risk Identification Checklist ([DASH-RIC](#)) developed by SafeLives is used by a variety of organisations across the UK in cases of domestic abuse, stalking and honour-based violence. It provides an assessment of risk at a snapshot in time. Some universities have trained key staff to use this tool. This enables the university to make referrals and share relevant risk information appropriately, and to review where the responsibility for this would sit.

3.A Multi-Agency Risk Assessment Conference (MARAC)

A Risk Identification Checklist (RIC) not only identifies those who are at high risk of harm, but also provides information on the support that might be needed, which could include referral to a MARAC meeting. This is a domestic abuse meeting that brings together representatives from a number of agencies in the local area to discuss the safety, health and wellbeing of people experiencing domestic abuse (and their children). Often the local police/MARAC coordinator will have specific paperwork that requires completion before a person can be referred (or, if someone is referred to a specialist service, they can do the paperwork).

Finding a route into a MARAC may not always be easy, given there is no established route to enable universities to support students to participate. A number of universities have developed flow diagrams to map out the different referral routes once a disclosure of domestic violence abuse has been made. For examples, see the UUK briefing [Responding to domestic violence and technology mediated abuse in higher education communities during the Covid-19 pandemic.](#)

Annexe H: Non-disclosure agreements

Statement on the use of confidentiality clauses in the Scottish higher education sector

Confidentiality clauses are used within the Scottish university sector for a variety of purposes – for example, in connection with commercially sensitive university research, and with staff leaving universities on voluntary severance terms.

Scottish universities do not use confidentiality clauses to prevent victims of harassment from speaking out. It is critical that all our staff and students are safe and supported, and we would consider any such use of confidentiality clauses to be wholly unacceptable.

Where a confidentiality clause is used, it is typically part of a wider settlement agreement between the individual and the university. The protection granted by such a clause is often just as important to the individual as to the university – it works in both directions.

Importantly, signing a settlement agreement never removes an individual's legal rights to speaking up, also known as 'whistleblowing', under the Public Interest Disclosure Act 1998. We believe it important that individuals signing settlement agreements are aware of their disclosure rights, and all Scottish universities are committed to the following good practice:

- confidentiality clauses should always make clear to individuals what their disclosure rights are
- individuals signing settlement agreements containing confidentiality clauses should always receive independent legal advice that includes clear advice on what their disclosure rights are
- being clear about disclosure rights should always include being explicit that nothing in a settlement agreement prevents an individual from reporting an alleged criminal offence to the police.

Universities Scotland
November 2019

Confidentiality clauses in England

In England, the Government consulted on the misuse of confidentiality clauses between workers and their employers in 2019 and announced that they would bring forward legislation in due course:

- such that no provision in a workplace non-disclosure agreement can prevent disclosures to the police, regulated health and care professionals, and legal professionals
- such that the limitations of a non-disclosure clause are clearly set out in settlement agreements and written particulars of employment – including that they cannot prevent whistleblowing
- which enhances the independent legal advice received by individuals signing workplace non-disclosure agreements
- which introduces enforcement measures for workplace non-disclosure agreements that do not comply with legal requirements in written statements of employment particulars and settlement agreements.

Guidance has also been provided for solicitors and legal professionals responsible for drafting settlement agreements. Further information is available from:

- [EHRC guidance on the use of confidentiality agreements in discrimination cases \(2019\)](#). The guidance provides employers and workers with a clear explanation of the law in relation to confidentiality agreements and explains when they would be unlawful.
- [ACAS Guidance on NDAs \(2020\)](#), which states that non-disclosure agreements should not be used to stop someone from:
 - reporting sexual harassment or discrimination at work, or to the police
 - 'whistleblowing' (workers who expose wrongdoing in the workplace)
 - disclosing a future act of discrimination or harassment
- [SRA Warning Notice \(2020\)](#) on the use of non-disclosure agreements.

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