

University of
South Wales
Prifysgol
De Cymru

SEXUAL MISCONDUCT AND VIOLENCE POLICY

Title: Sexual Misconduct and Violence Policy					
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This document is available in Welsh. Mae'r ddogfen hon ar gael yn Gymraeg.

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SEXUAL MISCONDUCT AND VIOLENCE POLICY

Statement of intentions

1. The Sexual Misconduct and Violence Policy relates to all incidents of sexual misconduct and violence, domestic abuse and coercive or controlling behaviour.
2. The University is committed to creating a welcoming and inclusive environment where our students, colleagues and partners can collaborate, innovate and flourish. Any form of sexual misconduct or harassment is never okay.
3. We recognise the harm and impact that sexual misconduct and violence causes, and the effect this may have on a student's studies at the University.
4. The University will not tolerate incidents of this nature, and any report will be fairly and thoroughly addressed through this Policy and the associated Procedures.

Aims

5. The aims of this Policy and the associated Procedures and Guidance are to:
 - Ensure that all students and staff are aware of their responsibilities in relation to sexual misconduct.
 - Provide a fair, transparent and consistent approach for reporting, investigating and responding to allegations of sexual misconduct.
 - Ensure that information about sources of support is made available to anyone who experiences or is accused of sexual misconduct.

Definitions

6. Sexual misconduct and violence encompass a range of unacceptable behaviours of a sexual nature and can occur online as well as in person. It may include, but is not limited to:
 - Engaging, or attempting to engage in sexual intercourse or a sexual act without consent
 - Administering a substance in order to engage in sexual intercourse or a sexual act without consent
 - Non-fatal strangulation for sexual gratification
 - Taking intimate/indecent photographs of another person without their consent, for example upskirting
 - Sharing, or threatening to share, private sexual materials of another person without consent and/or editing of images to make them sexually explicit
 - Voyeurism
 - Inappropriately showing sexual organs to another person
 - Repeatedly following another person, in a way that may make them feel uncomfortable
 - Making unwanted remarks of a sexual nature
 - Coercion or bullying with sexual elements
 - Child sex offences, including grooming
 - Trafficking for sexual exploitation
 - Sexual invitations and/or demands

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Domestic abuse and coercive or controlling behaviour includes incidents of controlling, coercive, threatening behaviour, violence or abuse between those who are, or have been, intimate partners or family members regardless of sexuality or gender. This can include but is not limited to psychological, physical, sexual, financial and/or emotional abuse. It does not matter whether the behaviour consists of a single incident or a course of conduct.

Confidentiality

7. Confidentiality will be maintained, where possible, in the application of this Policy, noting that:
 - Relevant staff will receive information that is necessary and proportionate to their role and involvement.
 - Information of a sensitive nature may need to be shared with those involved in the case.
 - Where a student is on a programme leading to professional registration there may be disclosure obligations on the University to the external body.
 - The University may need to share information outside the institution if this is necessary to protect the involved parties, or others, from harm or prevent a crime taking place.
8. All parties must keep information that is disclosed to them as part of the process confidential. Any unauthorised disclosure of confidential information, including the recording, copying or distribution of video/audio recordings and paperwork associated with investigations and hearings, will be considered a disciplinary offence and will be addressed accordingly. The University will act in compliance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

Disclosure and support for Reporting and Responding Students

9. A student may disclose an experience of sexual misconduct by a variety of means, including through the Report and Support system, to Wellbeing Services, to the Disclosure Response Team or to any member of the University's staff.
10. The University will try to minimise the number of times the Reporting Party has to disclose an incident of Sexual Misconduct and Violence.
11. A member of the Disclosure Response Team will be assigned to provide confidential support, advice and guidance to the Reporting Party. The team operates using trauma-informed approaches. This means recognising the signs of trauma, understanding how, what, where and when to ask questions and using techniques and strategies that reduces the possibility of re-traumatisation. They will also be able to help facilitate a referral to an external organisation, which provides specialist support for those affected by sexual misconduct.
12. A support person will be assigned to provide confidential support, advice and guidance to the Responding Student.
13. The Reporting Party and the Responding Student are able to submit an application for extenuating circumstances, if they consider that the case has affected their academic studies. They do not need to provide details of the circumstances under which they are doing so; Student Casework will provide a letter to support the application.

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Reporting

14. Following disclosure, the Reporting Party will be provided with information and support to help them consider their options, recognising that they may need time to reflect before making a decision. They are able to:
 - make a report to the police;
 - make a report to the University under this Policy;
 - make no report of the incident; and/or
 - receive advice on the support that is available to them, both within the University and at specialist services.
15. The Reporting Party may be signposted to a Sexual Assault Referral Centre, if appropriate. This will allow the Reporting Party to make an anonymous report and have evidence stored while they choose which option they wish to take.
16. The Reporting Party's wishes will be taken into account in determining whether a report should be made to the police. However, a report may be made by the University against the wishes of the Reporting Party if disclosure of the information is necessary to protect the Reporting Party, or others, from harm or prevent a further crime taking place. The University will ensure that the matter is sensitively dealt with and that all affected individuals are appropriately supported. (Please also refer to the Non-academic Misconduct Regulations, Misconduct which is also a criminal offence, sections 2.21 to 2.27).
17. While a report may be made by the University, the Reporting Party is under no obligation to engage with a police investigation.
18. The decision on whether to report to the police will be made by the Risk Assessment Panel, with overall authority for the decision resting with the Chair. The University's General Counsel and Safeguarding Lead must form part of the Panel when this decision is being made. The Risk Assessment Panel will decide who will make the actual report to the police and the rationale for this will be documented.
19. If the Reporting Party decides not to involve the police, they will still have the option of requesting that the matter is considered under this Policy and the associated Procedures. In these circumstances, the case will be dealt with as a potential breach of the Student Code of Conduct and not as a criminal offence. An initial case review meeting will be held prior to any formal action, including the convening of a Risk Assessment Panel, taking place.
20. The University may of its own volition, also decide to engage this Policy and the associated Procedures.
21. Where a Reporting Party has submitted a report via Report and Support, this will be used to instigate an investigation under this Procedure. Alternatively, the Reporting Party may complete an Allegation of Misconduct form or submit a written statement. A reported incident cannot be investigated if the Reporting Party wishes to remain anonymous or does not wish the details of the allegation to be made known to the Responding Student. Anonymised reports will normally only be used for trend analysis.

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Advice and support for staff

22. Staff who receive a disclosure about an incident of sexual misconduct/violence must immediately submit a report via the Report and Support system.
23. The University expects that staff who report, or are witness to, sexual misconduct, engage with the investigation process and any subsequent request to attend a hearing.
24. It is recognised that being witness to sexual misconduct and involvement in any subsequent process can be distressing. The University runs a Staff Support Scheme, details of which can be found on the Human Resources website. In addition, the Chaplaincy has considerable experience of dealing with sensitive matters and is available to offer formal and informal confidential advice and support.

The investigation process

25. The investigation process will be as outlined in the Procedure for Investigations into Cases of Student Misconduct.
26. In cases involving allegations of sexual misconduct, the Investigating Officer will normally be one of the University's Professional Investigating Officers. In certain circumstances, the University may decide to employ a specialist investigator external to the University.
27. The Reporting Party will be given the option of having their recorded interview played at the hearing, should the case progress to this stage.
28. The Investigating Officer will determine whether they need to interview any witnesses identified by either the Reporting Party or the Responding Student. In order to do so, they will have to disclose to the witness details of the case under consideration. The parties involved will be required to maintain confidentiality.
29. The University will share with the Reporting Party relevant evidence gathered during the course of an investigation to enable the Reporting Party to respond to that evidence in advance of the Investigating Officer reaching their conclusions.
30. The University will share with the Responding Student relevant evidence gathered during the course of an investigation to enable the Responding Student to respond to that evidence in advance of the Investigation Officer reaching their conclusions.
31. Following completion of the investigation, the Investigating Officer's report will be presented to the Dean of Faculty (or nominee). A decision will be taken as to whether there is a case to answer and, if so, whether the case should be referred to a Disciplinary/Fitness to Practise Committee.
32. A copy of the Investigating Officer's report will be provided to the Reporting Party and to the Responding Student. Consideration will be given to providing the outcome via Student Services, should this be considered necessary and/or appropriate.

Disciplinary Committees

33. Disciplinary Committees will be constituted and managed as outlined in the Procedure for Disciplinary/Fitness to Practise Committee Hearings.

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Attendance at the hearing

34. For the purpose of this Policy and the associated Procedures, and where applicable, the Reporting Party is classed as a witness. The Reporting Party will be invited to attend the hearing. However, they are not required to attend and consequently are able to decline any such invitation. The University will respect the decision of the Reporting Party in relation to attendance at the hearing.
35. Should the Reporting Party decide not to attend the hearing, the written evidence submitted by them will be classed as 'hearsay'. This is a legal term for evidence that is not tested by asking the person providing the evidence questions in person. Hearsay evidence could include any pre-recorded evidence or written evidence.
36. Hearsay evidence will be considered by the Committee to determine whether it should be included as part of the evidence base. If it is included, then the Committee must decide what weight or importance should be given to this evidence. Circumstances which could give rise to the Reporting Party's evidence being given less weight than the Responding Student's in person evidence include, by way of example, whether there are important and untested differences between the accounts given, and whether there has been an opportunity for the Responding Student to challenge the evidence relating to those differences. It is likely that hearsay evidence (if admissible) is likely to be given lower weight or importance.
37. The University may request members of staff and any other persons relevant to the case to attend the hearing as witnesses. The Reporting Party and the Responding Student will be informed of the names of any witnesses prior to the hearing.
38. The hearing may take place in person or via electronic means. Where a hearing is taking place in person, provision will be made for the Reporting Party to attend either in person or via electronic means, in a separate room.

Outcome

39. A decision on the information to be provided to the Reporting Party on outcome and sanctions will be made on a case by case basis, in conjunction with the Data Protection Officer.

Related Regulations and Procedures

Non-academic Misconduct Regulations

Non-academic Misconduct Procedures, including:

- Procedure for Disciplinary/Fitness to Practise Hearings
- Procedure for Requests for Review
- Procedure for the Consideration of Legal Representation
- Risk Assessment Procedure
- Guidance for Application of Penalties
- Extenuating Circumstances Regulations and Procedure
- Support to Study Regulations and Procedure

Guidelines for Application of Sanctions

DISCIPLINARY OFFENCE	EXAMPLES OF UNACCEPTABLE BEHAVIOUR	EXAMPLES OF SANCTIONS	RESPONSIBILITY FOR IMPOSING SANCTION
Sexual Misconduct	<ul style="list-style-type: none"> • Engaging in sexual intercourse or a sexual act without consent • Attempting to engage in sexual intercourse or a sexual act without consent • Administering a substance in order to engage in sexual intercourse or a sexual act without consent • Non-fatal strangulations for sexual gratification • Taking intimate/indecent photographs of another person without their consent, for example upskirting • Sharing, or threatening to share, private sexual materials of another person without consent and/or editing of images to make them sexually explicit • Voyeurism • Inappropriately showing sexual organs to another person • Repeatedly following another person, in a way that may make them uncomfortable • Making unwanted remarks of a sexual nature • Coercion or bullying with sexual elements • Sexual invitations and/or demands 	<ul style="list-style-type: none"> • Expulsion • Suspension/exclusion • Restrictions/conditions • Formal warning • Written apology 	University Disciplinary/Fitness to Practise Committee Dean of faculty to which the student belongs

	<ul style="list-style-type: none"> • Child sex offences, including grooming • Trafficking for sexual exploitation • Sexual invitations and/or demands 		
	<ul style="list-style-type: none"> • Threats to share sexual rumours or photos • Making unwanted remarks of a sexual nature • Sexual invitations and/or demands 	<ul style="list-style-type: none"> • Formal warning • Written apology 	Dean of faculty to which the student belongs