



UNIVERSITY_{OF}
WINCHESTER

BULLYING, HARASSMENT AND SEXUAL MISCONDUCT POLICY

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Indicate whether the document is for public access or internal access only Indicate whether the document applies to collaborative provision? <i>(Strikethrough text, as appropriate)</i>	Public Access Applies to Collaborative Provision
Summary: This policy provides expectations, definitions, and principles that apply to bullying, harassment and sexual misconduct.	

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1 INTRODUCTION AND PURPOSE OF THIS GUIDANCE

The University is actively anti-bullying and anti- harassment. We are resolute in protecting the rights of our community against sexual misconduct and we are committed to ensuring a safe environment where our staff and students can thrive, and everyone is treated appropriately and with respect.

The aim of this policy is to help prevent bullying, harassment and sexual misconduct and provide definitions and principles relating to bullying, harassment and sexual misconduct.

Allegations of bullying, harassment and sexual misconduct are investigated under the relevant policy (see section 8). The principles and processes that will be followed in investigating these issues can be found in those documents. Postgraduate students studying under a funding grant from an external body may *additionally* be subject to regulations under that grant contract.

2 SCOPE

This policy covers all partner providers, employees, workers, students, Governors and Emeritus Professors at the University of Winchester.

This policy also extends to acts by third-parties including volunteers, contractors, visitors, staff and officers of the Winchester Student Union and their trustees, so that the University may withdraw permissions related to their relationship with the University in situations where a breach of a position of trust is suspected or proven.

A student is considered to include students with visiting status, students at partner providers, and any individual registered on any credit-bearing and non-credit bearing programme of study at the University, including apprenticeship learners.

3 RESPONSIBILITIES

You are entitled to go about your work and/or study without fear of bullying, harassment and sexual misconduct. You are actively encouraged to come forward and raise legitimate concerns when you have them, without fear of retaliation or repercussions.

Support available to you is wide ranging, as set out in Appendix A.

You must also comply with this policy. You are required to treat others in an appropriate and respectful manner. Managers are required to investigate allegations of bullying, harassment and sexual misconduct, and provide appropriate support.

4 DEFINITIONS

4.1 What is bullying?

Bullying is offensive, intimidating, malicious or insulting behaviour, or a misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power is not restricted to being in a position of authority or influence, it can also include both personal strength and the power to coerce through fear or intimidation. Upward bullying is as serious as bullying from someone in a position of authority or influence.

Bullying can be in person, online or through any communication means. It may be verbal, in writing, or physical through gestures or otherwise. It may be directed at an individual or group, occur in their presence or be otherwise communicated to them including by third parties or other means, and experienced by others even if not directed at them.

Conduct can be deemed as bullying whether it is intended to offend or not, providing that it does offend and that it can be reasonably considered for it to have that effect.

Day-to-day business will not typically amount to bullying, for example:

- Organisational change, subject to consultation,
- Legitimate, reasonable, and constructive criticism of performance or behaviour,
- Reasonable instructions given in the course of employment or study,
- Decline of a request on business grounds, where the rationale is clearly set out
- Not being invited to a meeting or group where you are not required,
- Management or investigation under a formal process (for example, investigation of a grievance or complaint).
- Appropriate implementation of the University's Prevent Duty Implementation and Delivery Model

4.2 What is harassment?

Harassment, including sexual harassment, is unwanted behaviour or conduct that has the purpose or effect of violating a person's dignity, or creating an intimidating, humiliating or offensive environment because of or related to one or more of the following protected characteristics: age; disability; gender reassignment; race; religion or belief; sex; and sexual orientation. The behaviour might be a serious one-off act, or it may be behaviour that is repeated over time.

Some behaviour may also constitute a criminal offence under the Protection from Harassment Act 1997 as defined in section 7 of that Act. While not indicating any criminal liability if proven, those behaviours are also included in the University's definition of harassment on a balance of probabilities standard of proof. Under this provision, a course of conduct conducted on at least two occasions that harasses one other person, or a course of conduct that harasses two or more persons at least once each may be harassment, and includes persons who have aided, abetted, counselled or procured that conduct. In relation to this, such behaviour occurs if the person knows the conduct amounts to harassment of the other or a reasonable person in possession of the same information would think the conduct amounted to harassment of the other.

References to harassing a person includes alarming the person or causing the person distress. Such conduct will be harassment if it is intended to have that effect. Conduct that offends someone can also be harassment, even if that effect was not intended, if it is reasonable for it to have that effect. This means we take account of:

- the facts established; and
- the perception of the person at the receiving end of the conduct; and
- the other circumstances of the case; and
- whether it is reasonable for the conduct to have the effect under scrutiny.

Harassment can occur in many ways. It may be verbal, in writing, physical through gestures or otherwise, and it may be online, in-person or through any communication means. It maybe directed at an individual or group, occur in their presence or be otherwise communicated to them including by third parties or other means.

Conduct can be harassment even if it is not directed at the person who is harassed.

Day-to-day business will not typically amount to harassment, for example:

- the content of provided course materials, including books, videos, sound recordings, and pictures, and similar materials utilised for non-academic professional services,
- the statements or views appropriately expressed as part of teaching, research or discussions about the content of a provided course,
- Organisational change, subject to consultation,
- Legitimate, reasonable, and constructive criticism of performance or behaviour,
- Reasonable instructions given in the course of employment or study,
- Decline of a request on business grounds, where the rationale is clearly set out

- Not being invited to a meeting or group where you are not required,
- Management or investigation under a formal process (for example, investigation of a grievance or complaint)
- Appropriate implementation of the University's Prevent Duty Implementation and Delivery Model

4.3 What is sexual misconduct?

Sexual misconduct is non-consensual behaviour, or conduct, or attempted behaviour, or conduct of a sexual nature that includes (but is not limited to): sexual harassment; physical sexual violence and assault including rape; sexual abuse; non-consensual sharing, publishing or making of sexual videos, images, or online content; intimate partner violence; grooming; stalking; coercion or bullying with sexual elements; sexual invitations and demands; sexual comments; sexual non-verbal communication; creation of atmospheres of discomfort; promised resources or advancement in exchange for sexual access, and a vast range of other behaviours.

Intimate and physical acts of a sexual nature that are not freely consented to, or where the individual does not have the capacity to consent, are forms of sexual misconduct. If sexual conduct occurred and consent is not present, and the reported party was aware that the acts were not consented to, or any assertion of that belief is unreasonable on the facts, then sexual misconduct is established.

Sexual misconduct also occurs if an individual treats a person less favourably because that person has rejected or submitted to unwanted conduct of a sexual nature.

Grooming is a gradual process that someone in a position of power uses to manipulate someone to do things they may not be comfortable with and to make them less likely to reject or report abusive behaviour. Grooming can initially start as befriending someone and making them feel special and may result in sexual abuse and/or exploitation. Power relationship imbalances will be considered as an indicator of, but not a necessary element of grooming.

While sexual misconduct may be a criminal offence, conduct and behaviours do not need to amount to a criminal offence to constitute sexual misconduct under our policies. The University reserves the right to liaise to liaise with the Police and other relevant agencies on

these matters, and additionally report in-line with our Consent to Investigation and Reporting Externally Statement.

Sexual harassment also occurs if an individual treats a person less favourably because that person has rejected or submitted to unwanted conduct of a sexual nature.

If you are a colleague you should ensure that you are familiar with our Relationship Policy to fully understand the professional standard of behaviour expected of you, and your obligations around reporting any personal relationships between yourself and students and other staff.

4.3.1 Definitions relating to Consent

4.3.1.1 Consent

Consent is agreeing by choice and having the freedom and capacity to make that choice. It cannot be assumed because of previous sexual experience. Consent may be withdrawn at any time and consent to one act is not consent to all.

4.3.1.2 Freedom to consent

A person is free to make a choice if nothing negative would happen to them if they said no. For example, a person may not feel free to make a choice if:

- they are being threatened with physical or emotional harm (by the perpetrator and/or by someone else) which would reasonably place an individual in fear of immediate or future harm, with the result that the individual feels compelled to engage in the sexual act;
- they are being threatened with humiliation;
- they believe that the continuation or assessment of their studies, or progression or advancement of their career, will be at risk if they refused;
- they are being blackmailed;
- a relationship or actions are a result of an abuse of a power imbalance.

4.3.1.3 Capacity to consent

Capacity is about whether someone is physically and/or mentally able to make a choice and to understand the consequences of that choice. For example, a person may not have the capacity to give consent if:

- they are under the influence of alcohol or drugs, to the extent that they cannot reasonably be said to understand what is happening, even if physically able or seemingly willing to engage in sexual activity.
- they are asleep, unconscious, semi-conscious, or intermittently unconscious,
- a person may also not have capacity to give consent if they have, for example, a cognitive or learning difficulty, or are experiencing a mental health crisis.

- they are under 16.

5 HOW TO REPORT

We strongly encourage you to report behaviours or conduct if they were directed at you, if you were affected by them, or if you witnessed them, whether you want support only or if you want to discuss further action.

5.1 If you are a student

You can tell us about the behaviours or conduct of staff or students through Report and Support, or via any member of staff or via the Student Union.

Report and support is confidential, secure and you will receive follow-up within 3 working days. You can report an issue anonymously if you do not intend it to be investigated. You can find details of Report and Support by typing 'Winchester Report and Support' into the University's intranet or any external web browser.

5.2 If you are a colleague

If you have been affected by unwanted conduct from a student or another colleague, you can tell us about this through Report and Support, your line manager, or the Human Resources team.

Report and support is confidential, secure and you will receive follow-up within 3 working days. You can report an issue anonymously if you do not intend it to be investigated. You can find details of Report and Support by typing 'Winchester Report and Support' into the University's intranet or any external web browser.

5.3 If you are a colleague and a disclosure is made to you

We encourage you to refer the person making the disclosure to the Human Resources team (for allegations against other colleagues) or Report and Support (for allegations against other colleagues or students). This ensures that the individual receives the support they need from those with the right training and that we are handling the information correctly.

You should follow up, sensitively, with the person, to see if a disclosure has been made.

You **MUST** report allegations of a serious nature against colleagues, even in cases where the report is in confidence, or where you believe it has no substance. If you are unsure whether the behaviour is sufficiently serious to breach confidence –you should seek advice from the Human Resources team, or the student casework team at report@winchester.ac.uk.

5.4 If you are a member of the public or former student or colleague

Members of the public and former colleagues can make a complaint under the Public Complaints Policy, that can be found on the University's website.

Former students can make a complaint under the Student Complaints Policy, that can be found on the University's website. Allegations of sexual harassment that are historic will be considered to the extent possible.

6 GENERAL PRINCIPLES

Action is at the discretion of the University based on whether there is evidence available or good cause to instigate, in accordance with our policies and procedures. If you want support only and do not want an investigation, we can accommodate this unless the allegations are of a serious nature and involve a colleague, or if they present an ongoing danger to you or others. In the latter circumstances we also reserve the right to inform the police.

Allegations made against former colleagues or colleagues who are leaving will be investigated to the extent possible and their co-operation will be invited.

Allegations made against former students (students who are no longer registered with us) cannot be investigated.

We do not act as the police or a court of law. Our ability to investigate is not as far reaching as that of the police. Because of this we encourage you to also consider reporting to the police if your allegations could amount to a crime.

Any investigations, disciplinary and grievance processes are conducted in accordance with those policies and procedures.

We understand that these situations are very difficult, and we offer support at the outset of any investigation to all affected colleagues and students (reporting and reported parties) and provide this, where desired, including after any action if undertaken. These support opportunities will be communicated to you clearly. If sexual misconduct is involved, students affected will be offered support by appropriately trained student support colleagues. If colleagues are affected, our employee assistance programme offers tailored support. Appendix A sets out the support available to you.

7 MONITORING

We report data relating to harassment and sexual misconduct annually to our Equality, Diversity and Inclusion Committee, Risk and Audit Committee, People and Culture Committee and Senate.

8 RELATED POLICIES

Student related

- Student Conduct Policy
- Disciplinary Procedures for Students
- Fitness to Practice Policy and Procedures
- Safeguarding Policy
- Consent to Investigation and Reporting Externally Statement
- Prevent Duty Implementation and Delivery Model

Colleague Related

- Relationships Policy
- Investigation Policy
- Staff Disciplinary Policy
- Grievance Policy
- Safeguarding Policy
- Consent to Investigation and Reporting Externally Statement
- Prevent Duty Implementation and Delivery Model

Equality Impact Assessment	
Summary of process undertaken to determine equality impacts:	Consideration and input by Students' Union, UCU and UNISON representatives, Equality, Diversity and Inclusion Committee and People and Culture Committee

University Committee (name/ date) where equality impacts discussed (maybe Committee of approval, or another):	University Management Group
Identified equality impact(s) on colleagues and students (i.e. any specific impacts related to this policy that may cause disadvantage for people due to one or more particular protective characteristic)	
Protected Characteristic	Impact(s) identified and any action(s)/mitigation(s) to address these impact(s), as necessary.
Age	Policy acts to protect all staff and students and has a positive benefit in relation to this characteristic.
Disability	Policy acts to protect all staff and students and has a positive benefit in relation to this characteristic.
Gender Identity	Policy acts to protect all staff and students and has a positive benefit in relation to this characteristic.
Marriage/Civil Partnership	Policy acts to protect all staff and students and so has a positive benefit in relation to this characteristic
Pregnancy and Maternity	Policy acts to protect all staff and students and so has a positive benefit in relation to this characteristic
Race (incl. nationality)	Policy acts to protect all staff and students and so has a positive benefit in relation to this characteristic
Religion and Belief	Policy acts to protect all staff and students and so has a positive benefit in relation to this characteristic
Sex	Policy acts to protect all staff and students and so has a positive benefit in relation to this characteristic

Sexual Orientation	Policy acts to protect all staff and students and so has a positive benefit in relation to this characteristic
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APPENDIX A

The following support is available for **students** to access:

- [Report and Support Winchester.ac.uk/](https://www.winchester.ac.uk/report-and-support)
- Student Support and Success student.advice@winchester.ac.uk
- [Student Union Advice Centre](#)
- [Survivors UK](#) offer information, support and counselling for men and boys who have been raped or sexually abused.
- [Treetops Sexual Assault Referral Centre \(SARC\)](#) - for forensic advice and offer medical care, emotional support and practical help to anyone who has been raped or sexually assaulted
- [Yellowdoor](#) - offer independent advice to victims of sexual misconduct and domestic abuse.
- **Reporting to the police** – in an emergency phone 999 or in non-emergency situations report online at <https://www.hampshire.police.uk/advice/advice-and-information/rsa/rape-and-sexual-assault/how-to-report-rape-and-sexual-assault/>
- [Residential Support](#) - If you are a student in Halls, there are live-in wardens, residential assistants and 24-hour first-aid trained security as well as police liaison. The team can be an important source of guidance and support for students.
- If you have concerns and are on campus call University security on 01962 827666 (King Alfred Quarter) or 01962 827667 (West Downs Quarter).

The following support is available for **colleagues** to access:

- Human Resources team HR@winchester.ac.uk
- Employee Assistance Programme (details on the University's Intranet) Trade Union representatives
- [Survivors UK](#) offer information, support and counselling for men and boys who have been raped or sexually abused.
- [Treetops Sexual Assault Referral Centre \(SARC\)](#) - for forensic advice and offer medical care, emotional support and practical help to anyone who has been raped or sexually assaulted
- [Yellowdoor](#) - offer independent advice to victims of sexual misconduct and domestic abuse.
- Carefirst – employee assistance programme

- **Reporting to the police** – in an emergency phone 999 or in non-emergency situations report online <https://www.hampshire.police.uk/advice/advice-and-information/rsa/rape-and-sexual-assault/how-to-report-rape-and-sexual-assault/>