


SEXUAL MISCONDUCT & HARASSMENT POLICY



Policy Review					
Author/Owner	Position	Approved by:	Approval Date	Review Cycle Review Date	Published on Website Y/N
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Document Control – Revision History					
Author/Owner	Summary of Changes	Date	Date last reviewed by SED	Version	Recommend to SED Y/N
Sian Deasy	Added numbering. Replaced 'Tootoot' with TalkCampus. Added 'related policies & procedures' section.	14.04.2022		v1	
Donna Short	No changes required at this time.	26.05.23			
Sian Deasy	Addition of 1.5 line spacing, left justification, and contents table in line with accessibility good practice. Added sections on record keeping and training. Aligned definitions of Sexual Misconduct and Harassment to Office for Students statement of expectations. Added detail in section 3 on accessing immediate support and handling disclosure. Updated references to other policies with title changes, eg, Safeguarding policy has become Safeguarding & Prevent Policy. Added reference to Upskirting in section 2.4. Included staff in section 6.3 Support Available.	16.06.23		v2	

Initial Equality Impact Screening

Who has been consulted on this policy & procedure?

Head of Higher Education and Adult Learning, Head of Student Experience, colleagues from the Open University as part of the Institutional Approval event in 2023.

What evidence has been used for this impact screening?

Review in line with Office for Students Statement of Expectations and feedback from Open University colleagues. Safeguarding & Prevent Policy

Declaration (please tick one statement and indicate any negative impacts)

- We are satisfied that an initial screening has been carried out on this policy/procedure and a full Equality Impact Assessment is not required. There are no specific negative impacts on any of the Protected Characteristics groups.

- We recommend that an Equality Impact Assessment is required by the Equality and Diversity group, as possible negative impacts have been identified for one or more of the Protected Characteristics groups as follows:
 - Age
 - Disability
 - Gender Reassignment
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation
 - Marriage & civil partnership
 - Pregnancy & maternity

Completed by Author: Sian Deasy **Position:** Head of Higher Education and Adult Learning **Date:** 16.06.23

Reviewed by Equality & Diversity Group: _____ Date: _____

We confirm that any recommended amendments have been made

Completed by Author: _____ Position: _____ Date: _____

Summary of Comments/Recommendations from Equality & Diversity Group Review:

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1. PURPOSE

1.1. This Policy outlines the College's position on sexual misconduct and harassment, and outlines policies and protocols that students, staff, visitors and other individuals must follow if they experience, witness or become aware of sexual misconduct or harassment.

2. DEFINITION AND SCOPE

2.1. This policy applies to students, staff, contractors, and visitors.

2.2. Sexual Misconduct and Harassment are serious matters, which may or may not overlap with other issues such as safeguarding, Prevent, bullying, harassment, hate crime, peer-on-peer abuse, harmful sexual behaviour, or breaches of the code of conduct. Sexual misconduct and harassment can take place across any medium, including online.

2.3. **Harassment** (as defined by Section 26 of the Equality Act 2010) includes unwanted behaviour or conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment because of, or connected to, one or more of the following protected characteristics:

- age
- disability
- gender reassignment
- marriage or civil partnership
- pregnancy & maternity
- race
- religion or belief
- sex
- sexual orientation

Harassment can include domestic violence and abuse (which can also involve control, coercion, threats), and stalking.

We would also consider harassment to include any incidents of physical violence towards another person(s) on the basis of a protected characteristic, and hate crimes, such as those criminal offences which are perceived by the victim or any other person, to be motivated by hostility or prejudice, based on any of the protected characteristics as listed above.

2.4. **Sexual misconduct** relates to all unwanted conduct of a sexual nature. This includes, but is not limited to:

- Sexual harassment (as defined by Section 26 (2) of the Equality Act 2010)
- Unwanted conduct which creates an intimidating, hostile, degrading, humiliating or offensive environment (as defined by the Equality Act 2010)
- Assault (as defined by the Sexual Offences Act 2003)
- Rape (as defined by the Sexual Offences Act 2003)
- Physical unwanted sexual advances (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017)
- Upskirting: (as defined by the Voyeurism (offences) Act 2019)
- Intimidation, or promising resources or benefits in return for sexual favours (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017)
- Distributing private and personal explicit images or video footage of an individual without their consent (as defined by the Criminal Justice and Courts Act 2015).

2.5. Cases of reported misconduct will be managed in line with policies, procedures or protocols which are already embedded within the College. The nature of the situation will determine which process to follow: Safeguarding & Prevent Policy and Procedure; Learner Disciplinary Policy; Disciplinary & Grievance Policy and Procedure (staff conduct); or Respect at Work Procedure.

3. SHARING CONCERNS

3.1. **Students who experience or witness any incident of harassment or sexual misconduct** should report this to an appropriate member of staff (such as their tutor or a member of the Student Experience team). Learners can access a 'report a concern' button on the Let's Talk About page on Moodle, students can also raise a concern by calling the safeguarding phone (07973 898849), during working hours. Students will not be victimised for coming forward and sharing concerns. In situations which are also a safeguarding concern, the appropriate reporting structures from the Safeguarding & Prevent Policy should be followed. If a student discloses an incident of harassment or sexual misconduct to a member of staff, that member of staff must follow the guidelines for dealing with disclosure, as outlined in the Safeguarding & Prevent Policy.

3.2. **Staff who witness or learn of sexual misconduct or harassment in relation to a student** must follow the Safeguarding & Prevent Policy. In situations which require an immediate response, staff should call the Safeguarding phone for immediate assistance, during working hours.

- 3.3. **If a staff member experiences sexual misconduct or harassment themselves**, they should follow the Respect at Work Policy and Procedure. In situations which require an immediate response, staff should contact the HR department during working hours.
- 3.4. **Visitors must report any concerns related to sexual misconduct or harassment** in line with the Safeguarding & Prevent Policy and the safeguarding information provided at sign-in. If the concern requires an immediate response, they can ring the safeguarding phone (07973898849), during working hours.
- 3.5. **Contractors must report any concerns related to sexual misconduct or harassment** in line with the Safeguarding & Prevent Policy and the Contractor Code of Conduct. If the concern requires an immediate response, they can ring the safeguarding phone (07973 898849), during working hours.
- 3.6. In line with the principles outlined in the Safeguarding & Prevent Policy, if receiving a disclosure around sexual misconduct or harassment, the staff member or volunteer receiving the disclosure should:
- 3.6.1. Listen to what is being said without displaying shock or disbelief.
 - 3.6.2. Accept what is being said.
 - 3.6.3. Allow the person making the disclosure to talk freely.
 - 3.6.4. Reassure the person making the disclosure, but do not make promises which it might not be possible to keep and never promise to not tell anyone.
 - 3.6.5. Reassure the person making the disclosure and that it is the right thing to tell.
 - 3.6.6. Listen, and only ask questions if clarification is needed.
 - 3.6.7. Explain what has to be done next and who has to be told.
 - 3.6.8. Immediately take appropriate action to record the disclosure and inform the relevant parties in line with the appropriate policy (either the Safeguarding & Prevent Policy if the concern pertains to student, or the Respect at Work Policy and Procedure if the disclosure is coming from a member of staff who has experienced or witnessed sexual misconduct or harassment personally).
 - 3.6.9. The staff member or volunteer who received the disclosure should seek support following a disclosure, as this can be a distressing experience.

4. ACTION TO BE TAKEN

- 4.1. Depending upon the nature of the report, various actions might be taken. If the allegation is around a member of staff (including a volunteer or member of the corporation), the Safeguarding & Prevent Policy will be followed. The Safeguarding & Prevent Policy includes

clear guidance around handling disclosure, recording, information sharing, and actions to be taken.

- 4.2. If the allegation surrounds a current student, investigation may be undertaken in line with the Learner Disciplinary Policy including following protocols for where misconduct might also constitute a Criminal Offence (9.1), if appropriate. In line with the Learner Disciplinary Policy, appropriate reasonable adjustments may be made to ensure students can access appropriate learning for the duration of the investigation. In instances where internal investigation of a student is undertaken, this should be led by an appropriately qualified member of staff, such as the Head of Student Experience. Dependent upon the nature of the circumstances, it might also be necessary to consult with other agencies or specialists with appropriate expertise. Any investigations will be undertaken by staff who are free from any reasonable perception of bias. Confidential information will be used and shared as far as is appropriate to allow the College to meet its duty to safeguard students and ensure appropriate investigatory and / or disciplinary action is taken. This will likely involve reporting via internal safeguarding systems, including MyConcern. Upon beginning the process, the person leading the investigation will clearly communicate to the student or students involved expected timescales for completion. It must be noted that dependent upon the situation it may not always be possible to give an accurate deadline for completion of proceedings, especially where external agencies are involved, including but not limited to situations where misconduct may constitute a criminal offence, and completion of internal proceedings is therefore dependent upon the involvement of these external agencies.
- 4.3. In instances where it is not possible for the College to take investigatory action around a report, the reporting party will be signposted and encouraged to contact an appropriate authority who could progress their concerns, such as the Police. Whether or not the College is able to investigate the allegation will not impact upon a student's ability to access support, as outlined below.
- 4.4. The College takes reports of sexual harassment and misconduct very seriously. In instances of anonymous or third-party disclosures, we would endeavour to investigate in a proportionate manner based upon the information available. Owing to our statutory duty around safeguarding, we cannot guarantee confidentiality to those making disclosures.

5. DISCIPLINARY PROCEEDINGS

- 5.1. In instances where a College investigation identified sexual misconduct, appropriate disciplinary action would be taken, either in line with the Disciplinary & Grievance Policy for Staff, or the

Learner Disciplinary Policy for students. Disciplinary proceedings will be conducted by staff who are appropriately trained and free from any reasonable perception of bias.

- 5.2. Those involved in disciplinary proceedings will be appropriately supported, in line with the Disciplinary & Grievance Policy for Staff, or the Learner Disciplinary Policy for students. Outcomes will be reported in line with established timescales.

6. SUPPORT AVAILABLE

- 6.1. Students wishing to seek support in relation to experiencing or witnessing harassment or sexual misconduct can speak to their tutor or contact a relevant member of the Student Experience team at College, including by requesting to complete a counselling referral form. Students may also choose to seek support from a range of external agencies, including NSPCC, BASE from Barnado's, Somerset Phoenix Project, their GP, the police, other voluntary organisations such as Women's Aid, Victim Support, The Survivors Trust or Survivors UK. Students do not need to have made a formal complaint in order to receive this support. This support sits in addition to pastoral support available to all students, including via the Wellbeing Support section on Moodle, and via dedicated wellbeing app access.
- 6.2. Students who are part of an investigation or disciplinary process, whether as a reporting or responding party, will be offered the opportunity to access support, and can request to speak to a member of the Student Experience team in order to access pastoral and wellbeing support. This support sits in addition to pastoral support available to all students, including via the Wellbeing Support section on Moodle, and via dedicated wellbeing app access.
- 6.3. Students and staff are welcome to make requests for reasonable adjustments to be made for the duration of the period of investigation, or as part of a risk assessment / safety plan. However, there is no guarantee that adjustments could be made, especially where a requested adjustment would limit the College's ability to provide education and training and safeguard students.
- 6.4. Visitors or contractors who witness or experience sexual misconduct or harassment may choose to seek support via a range of agencies and organisations, including, but not limited to, NSPCC, BASE from Barnado's, Somerset Phoenix Project, their GP, the police, other voluntary organisations such as Women's Aid, Victim Support, The Survivors Trust or Survivors UK.

7. RECORDING AND RECORD KEEPING

7.1. In line with the Safeguarding & Prevent Policy, any concerns related to students will be reported via MyConcern, and information stored securely in line with established retention periods outlined in the Retention of Records Policy.

7.2. In line with the Respect at Work Policy and Procedure, appropriate records will be kept of any disclosures made or allegations made where staff experience sexual misconduct or harassment, and information stored securely in line with established retention periods outlined in the Retention of Records Policy.

8. TRAINING FOR STAFF AND STUDENTS

8.1. As outlined in the Safeguarding & Prevent Policy, all new starters receive mandatory training on a range of important topics, including but not limited to safeguarding, Prevent, female genital mutilation, gender identities, and must read Keeping Children Safe in Education.

8.2. As part of the ongoing mandatory CPD programme, all employees of the College undertake annual update training on safeguarding and key relevant legislation, which includes an annual update on sexual misconduct and harassment. Alongside this, the Designated Safeguarding Officer and Designated Safeguarding Lead provide regular updates on key themes, and more in-depth CPD across a range of safeguarding and Equality, Diversity and Inclusion (EDI) topics is scheduled throughout the year in line with statutory requirements, sector good practice guidance, and staff feedback.

8.3. As part of the tutorial programme, further education students engage in a range of sessions exploring key themes around sexual misconduct and harassment. The materials and resources related to these sessions are available and shared with all learners across the college via the Lets Talk About page and Student Wellbeing page on Moodle. Alongside this, Yeovil College University Centre (YCUC) students undertake specific training on the College's expectations around sexual misconduct and harassment as part of their mandatory induction programme.

9. RELATED POLICIES AND PROCEDURES

- Safeguarding & Prevent Policy and Procedure
- Disciplinary & Grievance Policy (Staff)
- Learner Disciplinary Policy
- Respect at Work Policy and Procedure
- Whistleblowing Policy and Procedure

- Office for Students Statement of Expectations ref Sexual Harassment and Misconduct¹
- Keeping Children Safe in Education
- Retention of Records Policy
- Sexual Offence Act (2003)
- Equality Act (2010)
- Voyeurism Act (2019)
- Equality and Human Rights Commission: Sexual harassment and the law (2017)

¹ <https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/prevent-and-address-harassment-and-sexual-misconduct/statement-of-expectations/>