

– Harassment and Sexual Misconduct in Higher Education

1. Statement

- 1.1. The College is committed to promoting and maintaining acceptable standards of behaviour and conduct by all users of the College in order to ensure no-one is subjected to harassment or abuse of any type.
- 1.2. Incidents of harassment and sexual misconduct will be dealt with in accordance with the College's disciplinary regulations and safeguarding procedures and will refer to external authorities/Police should the situation dictate this is the course of action.

2. Aims

- 2.1. The aim of the Statement is to set out the expectations for behaviour for higher education students.
- 2.2. The College is committed to encouraging understanding and demonstration of appropriate behaviours and values within all student cohorts.
- 2.3. The Statement will clarify the response, should an individual or group be responsible for harassment and/or sexual misconduct.
- 2.4. This statement will be considered alongside Office for Students regulatory requirements relating to academic freedom and freedom of speech.

3. Definitions

3.1. Harassment

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:

- i. age
- ii. disability
- iii. gender reassignment
- iv. race
- v. religion or belief
- vi. sex
- vii. sexual orientation

3.2. Sexual misconduct

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

- i. Sexual harassment (as defined by Section 26 (2) of the Equality Act 2010)
- ii. Unwanted conduct which creates an intimidating, hostile, degrading, humiliating or offensive environment (as defined by the Equality Act 2010)
- iii. Assault (as defined by the Sexual Offences Act 2003)
- iv. Rape (as defined by the Sexual Offences Act 2003)
- v. Physical unwanted sexual advances (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017)²

- vi. 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)³
- vii. 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).

3.3. Both definitions extend and include any medium, to include on-line.

4. Definition of consent

4.1. Consent is defined by section 74 Sexual Offences Act 2003:

Someone consents to vaginal, anal or oral penetration only if s/he agrees by choice to that penetration and has the freedom and capacity to make that choice.

4.2. In the context of a healthy relationship, this is giving a partner permission to engage in a specific action. Consent should be sought before a person engages in any kind of sexual activity with their partner. The College encourages students to understand what constitutes a healthy relationship. The College believes it to be one which shows respect and care towards each other's wishes and feelings and one in which an honesty exists that enables discussion on how each person wishes to be treated.

5. Definitions of sexual offences

5.1. Sexual harassment

This can be defined as 'unwanted conduct of a sexual nature' that can occur online or offline. Sexual harassment is likely to: violate a person's dignity, and/or make them feel intimidated, degrade or humiliate and/or create a hostile, offensive or sexualized environment. This can include abuse within an intimate relationship. Examples of sexual harassment can include sexual jokes, sexual taunting or remarking on someone's appearance or clothing.

5.2. Sexual violence

This guidance refers to sexual violence in the context of peer on peer abuse. Sexual violence covers a spectrum of behaviour. It can refer to offences under the Sexual Offences Act 2003.

Rape

(1) A person (A) commits an offence if—

- (a) he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis,*
- (b) B does not consent to the penetration, and*
- (c) A does not reasonably believe that B consents.*

(2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.

Assault by penetration

(1) A person (A) commits an offence if—

- (a) he/she/they intentionally penetrates the vagina or anus of another person (B) with a part of his body or anything else,*
- (b) the penetration is sexual,*
- (c) B does not consent to the penetration, and*
- (d) A does not reasonably believe that B consents.*

(2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.

Sexual assault

(1) A person (A) commits an offence if—

- (a) he/she/they intentionally touches another person (B),*
- (b) the touching is sexual,*
- (c) B does not consent to the touching, and*
- (d) A does not reasonably believe that B consents.*

(2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.

Sexual Offences Act 2003

5.3. Upskirting

This typically involves taking a picture under a person's clothing without them knowing with the intention of viewing their genitals or buttocks to obtain sexual gratification, or cause the victim humiliation or distress. Cases of 'upskirting' have a mandatory requirement for being reported under The Voyeurism (Offences) Act 2019.

5.4. Initiation/hazing type rituals

This is the practice of rituals, challenges and other activities involving harassment, abuse or humiliation used as a way of initiating a person into a group.

5.5. Sexting/sending nudes/revenge porn

Sexting/sending nudes is when someone shares sexual, naked or semi-naked images or videos of themselves or others, or sending sexually explicit messages. These can be sent on any device that allows you to share media or messages. This is also known as youth produced sexual imagery. **It is a crime to take, make, permit to take, distribute, show, possess, possess with intent to distribute, or to advertise indecent images of any person below the age of 18, under The Crime and Justice Act 1988 and The Protection of Children Act, 1978.**

6. Responding to sexual harassment or sexual abuse

- 6.1. All potential victims will be reassured and taken seriously. How the College responds to a report can encourage or undermine the confidence of future victims to come forward. Staff should challenge inappropriate behaviours and not tolerate sexual harassment as "banter" as this normalises sexually harmful behaviour. All reports of harassment and/or sexual misconduct will be dealt with in line with the College's safeguarding and disciplinary procedures.

7. Implementation

- 7.1. The college will collaborate with relevant student groups and representatives to ensure they deliver a clear and consistent message to all stakeholders that harassment and/or sexual misconduct will not be tolerated.
- 7.2. Expectations of the behaviour of Higher Education students will form part of the planned induction activities for new students and will be ongoing for those who are progressing.
- 7.3. Staff and governors will receive appropriate training to enable them raise awareness of harassment and/or sexual misconduct and to respond to incidents as they arise.
- 7.4. Reported cases and outcomes of harassment and/or sexual misconduct will be reported annually through governance structures. As part of this a review of the college's approach to harassment and/or sexual misconduct will be undertaken, and the impact on students ascertained.
- 7.5. Students will be provided with a timeline for investigations which will include associated timelines and factors that could impact this. Students will be provided with support during this period and until such a time this is not required.
- 7.6. Investigations will be undertaken in a fair, independent and unbiased manner. This may require external support and expertise.
- 7.7. Disciplinary hearings will be undertaken by trained, diverse and unbiased individuals and where appropriate student representative. External support and consultation may be sought.
- 7.8. All information will remain confidential and shared only with those within the investigatory and disciplinary processes.

- 7.9. From 1 September 2024, providers will not be able to use non-disclosure agreements (NDAs) where they relate to allegations about harassment or sexual misconduct. This prohibition covers all agreements that compel or seek to stop students from disclosing information about their experiences to a third party

8. Student Support

- 8.1. Students involved in an investigatory process will be provided with support.
- 8.2. Students will receive appropriate and timely communications throughout the investigatory and disciplinary processes.
- 8.3. Reporting and responding parties will receive a written outcome and explanations of the investigatory process.
- 8.4. The Statement will be implemented in accordance with the College's procedures and guidelines and through the following:
- Safeguarding Statement
 - Peer on Peer Sexual Harassment, Sexual Abuse and Sexually Harmful Behaviours Statement
 - Effective and timely induction and tutorial programmes for all students.
 - The College Charter, circulated annually, that includes a Code of conduct highlighting expectations of students.
 - Staff training and support around student management.
 - Review of associated policies and procedures in line with the College quality cycle
 - Involvement of external bodies to support knowledge and understanding of this area, for example Brook, NSPCC and the Lincolnshire/East Riding Multi Agency Safeguarding Hubs.