

SEXUAL VIOLENCE AND MISCONDUCT POLICY

1. INTRODUCTION

- 1.1** Keele University (referred to as “the University”) recognises that sexual violence and sexual harassment are prevalent throughout society, including within the Higher Education Sector. In the Higher Education sector, sexual violence and sexual harassment are often referred to as sexual misconduct. To capture the full range of experiences, this policy will use the term sexual violence and misconduct (SVM). Sexual violence and misconduct includes a broad spectrum of behaviours that cannot be divorced from other types of violence including, but not limited to, intimate partner violence or domestic abuse, coercive and/or controlling behaviour, and stalking.
- 1.2** The University is committed to taking all necessary steps to ensure a safe learning and working environment, in which the rights and dignity of all members of the University community are valued and respected. It acknowledges that SVM can be experienced by any individual, regardless of their identity, while those with one or more protected characteristics can experience higher incidence and prevalence rates, as well as additional barriers to reporting and help-seeking.
- 1.3** SVM can have a significant impact on individuals, their supporters, the wider university community and beyond. The University recognises that disclosure and reporting rates are low compared to incidence and prevalence rates and is committed to promoting a culture in which incidents of SVM will not be tolerated. Any person who has experienced SVM should feel able to raise the issue with confidence that the matter will be treated sensitively by the University.

2. PURPOSE

- 2.1** This Policy outlines the University’s approach to preventing SVM as well as how the University will respond to any to any reports of SVM
- 2.2** The University’s proactive approach to challenging SVM includes prevention, support, and sanction. Specifically, we deliver student and staff focused education and training opportunities, as well as wider awareness raising campaigns; we provide support to victim/survivors; we investigate reports made and follow disciplinary procedures where possible and appropriate. We review our work in this area regularly, and ensure it is informed by stakeholder consultation, as well as current research.
 - 2.2.1** The University has a duty of care in respect of our students and staff. If a member of our community has experienced SVM, we take appropriate steps to protect their safety wherever possible and facilitate their access to appropriate specialist support, while

respecting their wishes and decisions. We also have a responsibility to create and maintain an environment in which people feel confident in coming forward to seek help and/or make a report.

- 2.2.2 The University's duty of care extends to all our staff and students, including those accused of SVM. Therefore, if a member of our community is accused of SVM, wherever possible and appropriate, we take steps to protect their physical safety, as well as signposting them to support and guidance, while they are going through a disciplinary or criminal justice process.

3. SCOPE

- 3.1** This policy relates to all incidents of SVM, as well as domestic abuse, coercive or controlling behaviour, and stalking.
- 3.2** This policy applies to all members of the university community, including all students, staff employed directly by the university, as well as any contractors, agency and honorary staff, and volunteers working on campus or at any other university site (e.g. Clinical Education Centre, Guy Hilton Research Centre).
- 3.3** This policy will apply whether the alleged misconduct occurred on University property, off University property, or via electronic communication including but not limited to email, phone or social media.
- 3.4** Where the student affected by SVM is registered at Keele but studying at a partner institution, the University will seek to liaise with the partner institution to ensure the student is offered support and reporting options. It is unlikely the University will be able to investigate a report in these circumstances.
- 3.5** SVM includes a broad spectrum of behaviour. Examples of the types of behaviour that will constitute a violation of this Policy are set out below. Formal reports of such behaviour will be considered by the University under its internal disciplinary regulations; in all but exceptional circumstances, disciplinary action will only be taken with the consent of the victim-survivor. When the Accused Party is a student, Regulation [B1:Student Discipline](#) will apply. When the Accused Party is a member of staff, the academic staff or non-academic staff Disciplinary Policy and Procedures for will apply as appropriate. Where the Accused Party is both a member of staff and a student, both staff and student disciplinary procedures may be used. The circumstances of the allegation will determine the appropriate route for investigation and will be agreed by the Risk Assessment Panel in consultation with the Directorate of Human Resources.
- 3.6** Some incidents of SVM may also constitute a criminal offence under English law. Such incidents may be addressed through criminal proceedings, internal disciplinary proceedings, or, in some cases, both criminal and internal proceedings. It is for the victim-survivor to choose whether they wish to make a report to the police; only in exceptional circumstances will the University have a duty to inform relevant local authorities – see point 5.10 for further information. Where criminal proceedings are invoked, the University may suspend its disciplinary process and opt to put risk-mitigation measures in place until the criminal justice process is completed.

4. DEFINITIONS

4.1 The definitions below provide clarification of the terminology used within the Policy. They have been separated into explanations of the types of behaviour captured under this Policy which amount to Policy breaches.

4.2 The University recognises that while a disclosure of SVM may be made immediately after the incident, it is also common for a disclosure to be made about an historic incident.

4.3 Types of Behaviour

4.3.1 Sexual violence and misconduct is defined as any unwanted conduct of a sexual nature which occurred in person or by letter, telephone, text, email or other electronic means and/or social media and includes, but is not limited to, the following behaviour:

- Engaging, or attempting to engage in a sexual act with another individual without consent;
- Sexually touching another person without their consent;
- Kissing without consent;
- Conduct of a sexual nature which creates (or could create) an intimidating, hostile, degrading, humiliating, or offensive environment for others including making unwanted remarks of a sexual nature;
- Inappropriately showing sexual organs to another person;
- Repeatedly following another person;
- Recording and/or sharing intimate images or recordings of another person without their consent;
- Arranging or participating in events or conduct which may reasonably be assumed to cause degradation and humiliation to those who have experienced sexual violence, e.g. inappropriately themed social events or initiations.

4.3.2 Domestic abuse and coercive or controlling behaviour is defined as any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those who are, or have been, intimate partners or family members regardless of gender or sexuality. This can include, but is not limited to, psychological, physical, sexual, financial and/or emotional abuse.

4.3.3 Complicity is any act that knowingly helps, promotes, or encourages any form of sexual misconduct by another individual.

4.3.4 Retaliation may constitute any words or actions, including intimidation, threats, or coercion, made in response to disclosures or reports made under the Sexual Violence and Misconduct Policy, by any individual including both the Accused Party and the Reporting Party, as well as witnesses, friends, and relatives.

4.3.5 The University recognises that there are potentially additional types of behaviour that will constitute a breach of this Policy and which will therefore need to be considered under the relevant internal disciplinary regulations, although the frequency and likelihood of such breaches are likely to be low:

Vexatious reporting involves the creation of persistent, unwarranted reports made under the SVM Policy, or a refusal to accept any reasonable decisions arising from the application of the accompanying procedures to this Policy.

Malicious reporting occurs when an individual shares allegations of SVM that the individual knows to lack a basis in fact.

4.3.6 Consent is the agreement by choice where the individual has both the freedom and capacity to make that choice. Consent cannot be assumed on the basis of a previous sexual experience or previously given consent, or from the absence of complaint, and each new sexual act requires a re-confirmation of consent as the foundation of a healthy and respectful sexual relationship. Consent may be withdrawn at any time before or during a sexual act.

Freedom to consent: For consent to be present, the individual has to freely engage in a sexual act. Consent cannot be inferred from a lack of verbal or physical resistance. Consent is not present when submission by an unwilling participant results from coercion, force, threat, intimidation or the exploitation of power.

Coercion or Force includes any physical or emotional harm or threat of physical or emotional harm which would reasonably place an individual in fear of immediate or future harm, with the result that the individual is compelled to engage in a sexual act.

Capacity to consent: Free consent cannot be given if the individual does not have the capacity to give consent. An individual is incapacitated when asleep, unconscious, semiconscious, or in a state of intermittent consciousness, or any other state of unawareness that a sexual act may be occurring. Incapacitation may occur on account of a mental or developmental disability, or as the result of alcohol or drug use. Under English law, those under the age of 16 years do not have capacity to consent.

Alcohol and/or Drug Use: Incapacitation arising from alcohol or drug consumption should be evaluated on the basis of how the alcohol/drugs have affected the individual; signs of incapacitation may include, but are not limited to, one or more of the following: slurred speech, unsteady gait, bloodshot eyes, dilated pupils, unusual behaviour, blacking out, a lack of full control over physical movements, a lack of awareness of circumstances or surroundings, and/or an inability to communicate effectively. Intoxication is never a defence for committing an act of sexual misconduct, or for failing to obtain consent. If there is any doubt surrounding the capacity of any prospective participant, sexual activity must not take place.

4.4 Confidentiality

4.4.1 Confidentiality will be maintained, where possible, throughout the disclosure, reporting and investigative processes in recognition of the sensitive nature of SVM. As such, information will usually only be shared with relevant individuals/entities (who may be internal or external to the University, e.g. relevant University staff, counselling and mental health practitioners, witnesses, external experts from specialist agencies like Savana, Sexual Assault Referral Centres or the Police) with the agreement of the Reporting Party. In exceptional circumstances, including where a risk assessment finds that there remains a risk of harm to a child or vulnerable adult, and/or a serious risk of harm to the reporting student and/or the wider community, the University may be

bound by law to report the incident to a relevant external authority. Please see the University Safeguarding Policy and Privacy Notices for more information.

- 4.4.2** All individuals involved in any process under this Policy must keep information that is disclosed to them as part of the process confidential. Any unauthorised disclosure of confidential information may be considered a Policy violation and will be addressed accordingly. The University recognises that in cases of SVM, it may be necessary to share outcome details with the Reporting Party, so that they can manage their health and wellbeing, and access to support, education and employment. Outcome details will include those resulting from any Risk Assessment Panel (where the accused is a student only), as well as those resulting from the disciplinary process, including penalties, where appropriate.
- 4.4.3** Throughout all proceedings, the University will act in compliance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

5. KEY PRINCIPLES

- 5.1 The University has a duty under the Equality Act 2010 to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and other conduct prohibited by the act.
- 5.2 The University works to create and foster an atmosphere where students and staff feel able to come forward and disclose any incident of SVM with confidence.
- 5.3 Where the Reporting Student wishes to access support, they will be offered support through a Sexual Violence Liaison Officer (SVLO) from the Sexual Violence Prevention and Support Team. Other support at Keele and in the local area, including specialist therapeutic services, will be signposted. More information is available at – <https://www.keele.ac.uk/students/lifeoutsideofstudy/neverok/sexualviolence/>
- 5.4 Support for staff who have experienced SVM will be provided through the Safe Contacts; an up-to-date list of Safe Contacts can be accessed by emailing hr.people@keele.ac.uk. Support for staff is also available through Occupational Health and staff counselling.
- 5.5 Where the Accused Student wishes to access support, they will be offered support by Student Services through the Student Experience & Support, Counselling & Mental Health and/or Chaplaincy teams, and will be signposted to the ASK at Keele Students' Union for free and impartial advice if a disciplinary investigation is initiated.
- 5.6 Except for the circumstances outlined in 5.10 below, the University will only initiate investigation and disciplinary procedures with the consent of the reporting party. The University is only able to initiate investigation and disciplinary procedures when the accused party is a member of the University community.
- 5.7 The University will carry out all investigations into reports of SVM with diligence and sensitivity. All student disciplinary cases involving an allegation of SVM will be investigated under Regulation B1 following the process outlined in the Sexual Violence and Misconduct Procedure. Cases that proceed to Discipline Committee will be considered by a panel who have received training on SVM. Where appropriate, sanctions will be applied, up to and including termination of studies for students and dismissal from the University for staff.

- 5.8 All staff disciplinary cases involving allegations of SVM will be supported by a Safe Contact independent from the case investigation.
- 5.9 The University will not ask any student to sign a non-disclosure agreement (NDA) in relation to reported incidents of SVM or University disciplinary processes.
- 5.10 In exceptional circumstances, where a risk assessment concludes that there remains a risk of harm to a child or vulnerable adult, and/or a serious risk of harm to the reporting party and/or the wider community, the University may be bound by law to report the incident to a relevant external authority, and/or take disciplinary action, even where the reporting party does not consent. Please see the University Safeguarding Policy and Privacy Notices for more information.
- 5.11 The University has developed and maintains our #NeverOK campaign, in partnership with Keele Students' Union. The campaign aims to end all forms of violence and discrimination at Keele. As well as building awareness, the #NeverOK campaign encourages staff and students to be active bystanders, to safely step in and/or change the situation if they see violent or discriminatory behaviour in action.
- 5.12 The University recognises the importance of prevention activities, including education campaigns. The University will seek to deliver innovative campaigns which attract a wide and diverse audience, with the aim of examining and disrupting harmful cultural norms around sex and relationships.
- 5.13 The University delivers disclosure training to staff; we recognise that anyone could take a disclosure, and as such, training options will be offered to staff members regardless of their position or job title.
- 5.14 The University, together with Keele Students' Union and the KPA, will continue to provide resources aimed at keeping our community safe. This includes our Campus Security Team and the Safezone App for emergencies, the Students' Union safety buses, and the student led Street Team which accompanies students back to halls safely at night.
- 5.15 The University recognises that it will need to continue to learn from cases at Keele and elsewhere and welcomes feedback on how to improve its services regarding SVM and campus safety. Any feedback can be provided to the Sexual Violence Prevention and Support Team in Student Services or Human Resources.

6. EQUALITY AND DIVERSITY

Sexual misconduct can be experienced by any individual, regardless of sex, gender, sexual orientation, relationship status, age, disability, faith, ethnicity, nationality and economic status. Women and all people with a protected characteristic experience disproportionately high incidence and prevalence rates. Experiences of SVM may intersect with other forms of harassment and discrimination. The University is committed to providing support to any member of our community regardless of how they identify. The University has bullying and harassment policies for both staff and students.

Equality and diversity has been considered during the development of this policy and all protected characteristics have been taken into account within the equality analysis undertaken.

7. ROLES AND RESPONSIBILITIES

If you wish to discuss this policy or its contents, appropriate contacts include the University Safeguarding Lead, the Director of Human Resources and the Director of Student Services.

8. RELATED POLICIES AND PROCEDURES

- Regulation B1: Student Discipline
- Student Procedure for conducting a Mutual Resolution Process for cases of Sexual Misconduct
- Regulation B5 Fitness to Practise
- Bullying, Harassment and Victimisation Policy Statement - Students
- Disciplinary and Appeals Procedure for Academic Staff
- Staff Disciplinary and Appeals Procedure
- Policy & Procedure to Deal With Complaints Regarding Bullying, Harassment and Victimisation – Staff
- Safeguarding Policy

9. REVIEW, APPROVAL & PUBLICATION

9.1 This policy will be reviewed every three years in accordance with university guidelines, or sooner where changes are required.

9.2 This policy will be approved by University Executive Committee, in accordance with university guidelines.

9.3 This document will be available to view within the Policy Zone on the University website.

10. DOCUMENT CONTROL INFORMATION

[The table below should be completed by the document owner and included within every University Policy Document. The version control table will also be uploaded to the University Policy Documents webpage that hosts the policy, alongside the related procedure.]

Document Name	Sexual Violence and Misconduct Policy
Owner	Residence Life/Student Services
Version Number	1.0
Equality Analysis Form Submission Date	July 2021 and 8 th October 2021
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Approved By	University Executive Committee
Date of Commencement	13/10/2021
Date of Last Review	27/Sep/2021
Date for Next Review	Jun 2022
Related University Policy Documents	Bullying, Harassment and Victimisation Policy Statement - Students Regulation B1 Student Discipline Sexual Violence Policy Statement Student Procedure for conducting a Mutual Resolution Process for cases of Sexual Misconduct Regulation B5 Fitness to Practise Disciplinary and Appeals Procedure for Academic Staff

	Staff Disciplinary and Appeals Procedure Policy & Procedure to Deal With Complaints Regarding Bullying, Harassment and Victimisation – Staff Dignity and Respect Framework Safeguarding Policy
<i>For Office Use – Keywords for search function</i>	Sexual, Violence, Misconduct, Staff, Students