

UNIVERSITY OF ST ANDREWS POLICY STATEMENT RELATING TO STUDENT SEXUAL MISCONDUCT

Context

The University is committed to taking all reasonable steps to provide a safe environment conducive to the academic, social and personal development of all students. Members of the University are expected to comply with the law at all times, and to avoid behaviours that may constitute a danger to themselves and others, or to the wellbeing and reputation of the University and wider community. The University regards any form of sexual misconduct as unacceptable.

Duty of Care

The University takes seriously its duty of care to its members. If a member of the University has been the victim of sexual misconduct, the University will take reasonable steps to ensure their physical safety and facilitate their access to appropriate specialist support, while respecting their feelings and decisions.

Students disclosing an incident(s) of sexual misconduct to the University will be given information on the options available to them including: reporting to the Police, making an anonymous report to CrimeStoppers, requesting a University Risk Assessment, making a formal complaint under the University's Non-Academic Misconduct Policy, or requesting support only (University or external provider).

This policy applies to all students of the University.

Confidentiality

The University recognises the importance of privacy in cases where sexual misconduct is alleged. Confidentiality will be maintained as far as possible unless otherwise agreed. There may however, be circumstances, e.g. danger of physical assault, that require the University to disclose certain information to additional University personnel or to third parties on a 'need to know' basis: this is consistent with meeting our Duty of Care obligation.

Where the name of the alleged perpetrator has been disclosed but the complainant wishes to remain anonymous, the complainant will be encouraged to pass information to CrimeStoppers which offers an anonymous crime reporting service. In such cases UK law constrains the University; the name of the alleged perpetrator cannot be held by the University and a risk assessment or disciplinary action cannot be undertaken. The University will continue to provide support where requested, or provide pathways to external support if preferred.

Unacceptable Behaviours

Sexual Misconduct covers a broad range of inappropriate, unwanted, behaviour. From the most severe forms of sexual violence including rape and sexual assault, it also extends to unwanted touching, stalking, abusive or degrading remarks and across the vast range of inappropriate behaviour in between. Whilst detailing all the behaviours covered by this policy is not possible, the common thread is the lack of informed consent. Consent is always required and cannot be assumed based on the parties' relationship status or sexual history together. Consent can be withdrawn at any time before or during sexual activity by either party. There can be no free consent in situations where someone is incapacitated by alcohol or drugs and therefore unable to give meaningful consent to sexual activity. It should be noted that consent to one form of sexual activity (e.g. kissing or touching) does not mean that consent has been given to any other sexual act.

Risk Assessment

In all cases of sexual misconduct the complainant will be given the option to disclose the name of the alleged perpetrator(s) and have the University undertake a risk assessment. A risk assessment cannot be undertaken if the complainant wishes to remain anonymous. Where a risk assessment is undertaken, the risk assessment will consider the potential risks to the individual, their peers, and the organisation. The University will also seek to establish the extent of any reported and identified breaches of its Non-Academic Misconduct Policy and sanctions could involve restrictions on access to University facilities and services. This process is separate to disciplinary action.

Disciplinary Action

The University recognises that it is outside its remit to undertake a criminal investigation. It will, however, cooperate fully with any associated Police investigation and subsequent legal proceedings. The University may also establish separate disciplinary proceedings where such measures are considered appropriate by the behaviours and circumstances. The University will at no time undertake any investigations or actions which may compromise any police investigation. While disciplinary action may run in parallel to the risk assessment process, disciplinary proceedings will normally be placed on hold in the event of a Police investigation. In that event, the process of risk assessment and any action considered appropriate arising out of such assessment may continue notwithstanding the Police investigation.

Actions under University Policy

Responsibility: Responsibility for risk assessment and disciplinary decisions in this context rests ultimately with the Proctor, who delegates operations as necessary to the Assistant Registrar, the Student Conduct Officer, the Director of Student Services, and the Deans.

Procedures: Staff and students should consult the University's Sexual Misconduct: Advice and Guidance documents. Where disciplinary procedures are invoked, they will follow the process laid out in the University's non-academic misconduct policy. Medical students should note that the Fitness to Practice procedure interacts with the non-academic misconduct policy and may be invoked when a medical student faces allegations of sexual misconduct.

Police Involvement: The University will not normally report **details** of an incident of sexual misconduct to the police without the complainant's permission. However, in exceptional circumstances the University may exercise its right to pass information to the Police where there is believed to be a continuing risk to the student reporting the incident or a risk to others. If a criminal investigation is undertaken, the University will facilitate the Police enquiry wherever possible, and if not done so already a risk assessment will be undertaken pending further disciplinary action, if required. Where the alleged perpetrator is charged by the Police the University reserves the right to suspend their studies as a risk management measure until the outcome of the criminal proceedings. A suspension is without prejudice to any investigation and disciplinary hearing that may result.

Vexatious Complaints: The University treats genuine reports of misconduct seriously. However, the possibility of malicious or spurious complaints is recognised and any complaints identified as such will be dealt with under the University's non-academic misconduct policy.

Reporting: Details of cases where risk assessment or disciplinary action have been taken are reported and held centrally subject to the provisions of the Data Protection Act by the Student Conduct Officer within Registry and in accordance with the Student Confidentiality Code.

Review This Policy Statement is subject to Annual Review by the University Security Strategy Group.
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