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. Staff and students also have a responsibility to encourage individuals affected by sexual misconduct issues to seek help. This policy applies to all students of the University.

Risk Assessment
In all cases of reported sexual misconduct, including referral by a third party, the University will establish the extent of any reported and identified breaches of its misconduct policies and undertake a formal Risk Assessment. The Risk Assessment will consider the potential risks to the individual, their peers and the organisation. The University will take affirmative action to mitigate identified risks where sexual misconduct may be involved. This could include the involvement of the Police and/or immediate suspension of students where the University considers that there is a potentially serious risk. This process is separate from disciplinary action. A suspension is not considered a disciplinary action and is without prejudice to any investigation and disciplinary hearing that may result.

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. Hence, disciplinary action may run in parallel to risk assessment processes, although the two processes are independent, but in the event of a Police investigation, University disciplinary proceedings will be placed on hold. In that event, the process of risk assessment and any action considered appropriate arising out of such assessment may continue notwithstanding the Police investigation.

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.

**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 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.

Criminal Offences: The University will not normally report an incident of sexual misconduct to the police without the complainant’s permission. However, on occasion it may be required to notify the Police of behaviour/areas of concern 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.

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.

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.

Reporting: Details of non-academic misconduct are reported and held centrally, subject to the provisions of the Data Protection Act, by the Student Discipline Officer within Student Services and in accordance with the Student Confidentiality Code.
Review
This Policy Statement is subject to Annual Review by the University Security Strategy Group.

*August 2017*