



University of
St Andrews

Policy statement relating to student sexual misconduct

Document type	Policy
Scope (applies to)	Public
Applicability date	28/10/2020
Review / Expiry date	30/08/2021
Approved date	29/10/2020
Approver	Director
Document owner	Student Services Manager
School / unit	Student Services
Document status	Published
Information classification	Public
Equality impact assessment	05/08/2020
Key terms	Student administration/Non-academic discipline
Purpose	The University regards any form of sexual misconduct as unacceptable. This policy statement supports the University community in matters relating to student sexual misconduct.

Version number	Purpose / changes	Document status	Author of changes, role and school / unit	Date
1.0	Updates to language and content. Annual review complete.	Approved	Lara Meischke, Director of Student Services	17/09/2020
1.1	Updates to include new Report & Support system, including anonymous reporting information	Approved	Lara Meischke, Director of Student Services	28/10/2020

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). In the case of a student reporting a member of staff, the student will be directed to the Disciplinary Procedure.

This policy applies to all students of the University.

Staff disclosing Gender Based Violence in the workplace and in any work-related setting outside of the workplace should refer to the Gender Based Violence Policy.

Confidentiality

The University recognises the importance of privacy in cases where sexual misconduct is disclosed. 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.

The University must conduct full and fair investigations of sexual misconduct, so that responsibility for misconduct can be established and sanctions considered appropriate can be imposed by the University. Due process is impossible to undertake where a reported person does not know who their accuser is, and therefore the reported person is provided with relevant details such as the identity of their accuser, dates, times and surrounding circumstances.

Anonymous reports let the University know something has happened, and will help the University better understand and prevent issues within our community. Where the reporting person chooses not to provide their name or contact details, this may constrain the University's ability to take action. If the name of the reported person has been disclosed but the reporting person wishes to remain anonymous, the reporting person may also wish to pass information to CrimeStoppers which offers an anonymous crime reporting service.

The University will 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 extends to unwanted touching, stalking, abusive or degrading remarks and across the vast range of inappropriate behaviour in between. Sharing, or threatening to share intimate photos or videos without consent is also covered in this policy. 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 reporting person will be given the option to disclose the name of the reported person(s) and have the University undertake a risk assessment. Where a risk assessment is undertaken, discussion of the details of the report will be essential to consider the potential risks to the individual, their peers, and the organisation, and to determine any appropriate risk management measures. The University will also seek to establish the extent of any reported and identified breaches of its Non-Academic Misconduct Policy/Disciplinary 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 reports of sexual misconduct.

Police Involvement: The University will not normally report details of an incident of sexual misconduct to the Police without the reporting person'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 reported person is being investigated 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: Staff, students, members of the public, and visitors to the University are encouraged to use Report and Support <https://reportandsupport.st-andrews.ac.uk/>. 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. August 2020.

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