

SEXUAL MISCONDUCT AND VIOLENCE POLICY FOR STUDENTS, STAFF AND VISITORS

1. Policy Statement

- 1.1 The University is committed to promoting consent culture, where consent is expected and non-consensual acts of a sexual nature are not ignored, minimised, or tolerated.
- 1.2 The University is committed to promoting reporting culture, where anyone subjected to sexual misconduct and violence is supported to disclose and/or report the incident/s to the University and/or Police without fear of retaliation or victimisation.
- 1.3 Sexual violence, sexual harassment, stalking, and domestic abuse are pervasive throughout society; similarly, within higher education institutions there are often complicit cultures that exist which have and continue to allow such abuses of power and/or trust to occur. Durham University recognises that incidents of Sexual Misconduct and Violence occur within the University community and acknowledges that there has been a noticeable increase in the number of incidents disclosed by the community, a trend that is encouraged and reflected across the Higher Education sector and beyond.
- 1.4 This policy is written in recognition that sexual misconduct and violence can happen at Durham University. It sets out how the University defines such abuses and what the University expects of its staff, students, and visitors. It sets out how the University will respond when these serious issues are experienced and perpetrated. This policy is part of a broader series of actions that have the aim of eradicating such abuse and helping to ensure all students, staff, and visitors positively experience their time at Durham University. Further information about the actions Durham University have taken can be found here:
<https://durham.ac.uk/colleges-and-student-experience/student-support-and-wellbeing/student-conduct/sexual-misconduct-violence/>.
- 1.5 Durham University uses the umbrella term 'Sexual Misconduct and Violence' to capture a broad spectrum of behaviours, such as rape, sexual assault, sexual harassment, image-based sexual abuse, and other types of gender-based violence including, but not limited to, intimate partner violence or domestic/dating abuse, coercive and/or controlling behaviour, and stalking. These issues are complex and may not always be obvious or follow an easily recognisable pattern, both in how they are seen and how they can be resolved. For example, the way these violations are experienced is not always as a lone person's behaviour towards another.
- 1.6 The University acknowledges that anyone, regardless of their identity, can be subjected to Sexual Misconduct and Violence, and anyone can perpetrate Sexual Misconduct and Violence.

- 1.7 The University is committed to demonstrating perpetrator accountability in which any incidents of Sexual Misconduct and Violence will not be tolerated and will be thoroughly addressed to ensure the preservation of a safe work and study environment by holding anyone found to have breached this Policy to account for their behaviour through appropriate and proportionate responses.
- 1.8 Durham University has a duty of care towards all its members to prevent and respond to these issues. In order to create the safe culture we desire, it is vital that Durham University is clear on what kinds of behaviours and cultures are unacceptable and what can be done if they are witnessed or experienced. Student, staff, and visitor safety is paramount; through this Policy, Durham University will seek to safeguard all, especially those with care and support needs. Intimate relationships between staff and students are strongly discouraged as detailed in Durham University's [Conflict of Interest & Close Personal Relationships](#)
- 1.9 Durham University uses trauma-informed approaches to respond to disclosures, investigate reports, and to offer appropriate support to those who have been or may have been subjected to sexual misconduct and violence.
- 1.10 Sexual misconduct and violence concerns the entire community and everyone has a responsibility to act when they witness such abuses, as long as it is safe to do so. Equally this policy commits Durham University to properly address prevention and encourage interventions through continued investment and training.

2. Policy Principles

- 2.1 Durham University holds the following set of Principles to reflect the University's commitment to establishing a culture of consent, support, and respect. All members of Durham University have a responsibility for upholding the Principles that are as follows:
 - 2.1.1 We will treat all members of our community with dignity and respect at all times, and it is expected that all members of our community will share in this responsibility for creating and sustaining an environment which upholds the dignity of all.
 - 2.1.2 We are expected to seek consent when interacting with others. Consent is clearly defined as someone agreeing by choice and having the freedom and capacity to make that choice.
 - 2.1.3 We recognise the significant impact of all experiences of Sexual Misconduct and Violence, and acknowledge the potential detriment to studies and employment, regardless of when the experience occurred.
 - 2.1.4 We strive to maintain equality, diversity, and inclusion within our community and will work to sustain an equal and safe environment in which a culture of prevention will be promoted through appropriate and consistently applied education and training.
 - 2.1.5 We will respect the right of the individual disclosing an experience to choose how to take forward a Disclosure and will allow them to choose whether to Report to the University and/or Police apart from when safeguarding concerns¹ dictate otherwise.

¹ For example, when the Reporting Party is under the age of 18. The University's safeguarding policies can be found here: <https://www.durham.ac.uk/about-us/safeguarding/>

- 2.1.6 We will actively respond to all Reports of Sexual Misconduct and Violence and, whilst recognising that some experiences may constitute a criminal offence, we will ensure that, in all cases, Reports are carefully and thoughtfully addressed by relevant staff members through a process that is transparent and clearly communicated to the individuals involved.
- 2.1.7 We will assess all Reports under the accompanying procedures on the balance of probabilities, the civil standard of proof, in line with General Regulation IV: Discipline, the Non-Academic Misconduct Disciplinary Procedure, employee Disciplinary Procedures, and sector guidance.
- 2.1.8 We will ensure all University staff are informed of the Policy and are trained as appropriate to their roles. All staff involved in the process will always act with impartiality and discretion.
- 2.1.9 We believe that no person should suffer the effects of Sexual Misconduct and Violence alone, and will ensure that there is dedicated specialist support, including free and accessible counselling for those who disclose they were subjected to sexual misconduct and violence, regardless of when the incident/s occurred.
- 2.1.10 We will work with local partners and key groups to forge positive relationships to support all our work in this area, from prevention to enquiry and post-incident care.
- 2.1.11 We are mindful of our civic responsibilities to the wider community and aim through prevention and response efforts that when students or employees leave the University, they have the knowledge and skills to promote consent culture in the community more widely.
- 2.1.12 In addressing experiences and working with both internal and external experts, we will seek to learn from experience, enabling the University to both shape and respond to national and international policy and practice, and to provide regular assurance to Council, Senate, the University Executive Committee, and the wider University community, that specific incidents and broader cultural issues are appropriately captured and addressed.

3. Scope of the Policy

- 3.1 This Policy relates to all incidents of Sexual Misconduct and Violence, including domestic abuse and coercive or controlling behaviour, stalking, as well as complicity, retaliation, vexatious reporting, and malicious reporting as defined in Section 4.
- 3.2 Under this Policy all students and staff members who have been subjected to Sexual Misconduct and Violence will have equality of access to internal support and signposting to external specialist support (e.g., Sexual Assault Referral Centre and Rape Crisis), regardless of when the experiences occurred.
- 3.3 The University can investigate experiences of sexual misconduct and violence which have occurred during the course of study or work at the University, in which the Responding Party

is a current student or member of staff of the University. Disclosures and Reports made under this Policy are not limited to experiences that have occurred on University premises, University business, or the immediate geography of the University. Sexual misconduct and violence can occur in-person or online, during or outside of term time, on or off University business and on or off University premises. The key measure to determine if the University can investigate and make a determination of misconduct is whether the incident/s occurred whilst the Responding Party was a current student or employee of the University.

- 3.4 Sexual Misconduct and Violence includes a broad spectrum of behaviour. Examples of the types of behaviour that will constitute a violation of this Policy are explained in Section 4. Reports of such behaviour will be considered by the University under the relevant staff or student procedure and disciplinary process as appropriate. When the Responding Party is a student the General Regulation IV: Discipline - Non-Academic Misconduct Disciplinary Procedure will apply. When the Responding Party is a member of staff the Sexual Misconduct and Violence Policy: Procedure for Staff and Disciplinary Regulations for staff will apply.
- 3.5 Some incidents of Sexual Misconduct and Violence 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. Apart from when safeguarding concerns² dictate otherwise, the choice to pursue criminal or internal proceedings will be left with the Reporting Party.

4. Definitions

- 4.1 The definitions in this section have been separated into explanations of the types of behaviour captured under this Policy which amount to Policy breaches (misconduct) and clarification of the terminology used within the Policy.
- 4.2 Durham University recognises that many terms related to sexual violence are not always clearly legally, contractually, or socially defined and that language can change over time. The Policy aims to outline examples of behaviour not tolerated within our community, but these behaviours are not an exhaustive list. Criminal language to describe these behaviours is not used, where possible, in the policy, as the University is unable to make decisions on whether specific criminal offences under English Law have been found. However, the University can investigate specific behaviours as policy breaches, which may also be considered separately through criminal justice proceedings.

Types of Behaviour which is considered Misconduct

- 4.3 **Sexual Misconduct and Violence** is defined as any unwanted and/or non-consensual conduct which could reasonably be perceived as sexual in nature. This can be a one-off incident or a pattern of behaviour which occurred in person or by letter, telephone, text, email or other electronic and/or social media. It can be physical and/or non-physical. Under this policy, this umbrella term also includes domestic abuse, coercive and controlling behaviour, and stalking regardless of sexual abuse being present. Examples of Sexual Misconduct and

² The University's Safeguarding Policy can be found here: <https://www.durham.ac.uk/about-us/safeguarding/>

Violence includes, but is not limited to, the following behaviour:

4.3.1 Non-consensual sexual act: Engaging or attempting to engage in a sexual act with another individual without consent. This may include, for example, the penetration, or attempted penetration, of someone's vagina, anus, and/or mouth with a body part/object or making someone engage in a sex act without their consent.

4.3.2 Non-consensual sexual touching: Sexually touching another person without their consent. This may include, for example, kissing, or touching someone above or underneath clothing.

4.3.3 Sexual harassment: unwanted and unwelcome words, conduct, or behaviour of a sexual nature that has the purpose or effect of creating (or that could create) an intimidating, embarrassing, hostile, degrading, humiliating or offensive environment for the recipient.

For the purpose of this policy whether or not the Responding Party intended to be offensive or cause harm is irrelevant. The impact on the recipient, inclusive of whether it is reasonable for the conduct to have that effect and whether the behaviour breaches the values and standards of the University will be the focus, rather than motive or intent. A single incident or persistent behaviour can amount to sexual harassment. Often the impact is not felt or witnessed immediately. The impact may go beyond the recipient to people who see or hear what happens or who try to offer support.

Sexual harassment can include but is not limited to catcalling, making unnecessary and unwanted physical contact, sexual jokes and comments, giving unwelcome personal gifts, wolf-whistling, leering, derogatory comments, unwelcome comments about a person's body or clothing, asking unwelcome questions about a person's sex life and/or sexuality, engaging in unwelcome sexual propositions, invitations and flirtation, making somebody feel uncomfortable through displaying or sharing sexual material. Sexual harassment does not necessarily occur face to face and can be in the form of emails, visual images (such as sexually explicit pictures on walls in a shared environment), social media, telephone, and text messages.

4.3.4 Indecent exposure: inappropriately showing one's sexual organs/genitalia to another person. This can include directing this behaviour to a specific person and/or more generally with no targeted person, but where individuals are subjected to this without their consent.

4.3.5 Stalking: unwanted, repeated, fixated, obsessive and / or controlling behaviours that are intrusive and make the recipient distressed or scared. Examples may include regularly following someone, sending unwelcome gifts, making unwanted or malicious communication, checking someone's internet use, interfering with their property, using their friends/loved ones to gain information about them and /or send messages to them, watching or spying on someone.

4.3.6 Image-based sexual abuse: recording and / or sharing intimate images or recordings of another person without their consent, threatening to share private sexual images without consent, and/or upskirting. This includes content that has been artificially generated and/or digitally altered.

4.3.7 Promoting Rape Culture: Arranging or participating in events which may reasonably be assumed to cause degradation and humiliation to those impacted by sexual violence, for example social events or initiations themed to promote or under pinned by rape myths.

4.3.8 Abuse of Power: Misuses of power enacted by academic, professional, contracted, and temporary staff in their relations with other staff members or students, or misuses of power between students who have unequal institutional power. Examples include inappropriate or unwanted behaviour such as harassment, grooming/boundary blurring, bullying, sexual invitations, comments and non-verbal communication with sexual content or overtones, creation of inappropriate sexual atmosphere, and promised resources in exchange for sexual interaction. For information on appropriate and inappropriate relationships, please see [Close Personal Relationships between Staff](#) and [Close Personal Relationships between Staff & Students](#)

4.3.9 Domestic / dating abuse and/or coercive or controlling behaviour: any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those who are, or have been in an intimate personal relationship or are family members, regardless of gender or sexuality. This can include, but is not limited to, psychological, physical, sexual, economic, emotional, identity, and/or spiritual abuse.

4.3.10 Acts of Force: physical force, threats, intimidation, or coercion that takes away an individual's freedom to consent to sexual activity. Physical force may include the intentional physical impact upon another, strangulation/choking/suffocation, physical restraint and/or the use of a weapon or an object as a weapon. A threat is when there is a negative consequence if the individual said no. Intimidation is the use of power or authority to influence someone's decision and/or physically being larger or stronger than someone where they fear physical violence if they say no. Coercion is when someone is pressured unreasonably for sex, which can include manipulation.

4.3.11 Complicity: any act that knowingly helps, promotes, or encourages any form of Sexual Misconduct and Violence by another individual.

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

4.4 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:

4.4.1 Vexatious reporting: the creation of persistent, unwarranted reports made under the Sexual Misconduct and Violence Policy, or a refusal to accept any reasonable decisions arising from the application of the accompanying procedures to this Policy.

4.4.2 Malicious reporting: submitting a report regarding an allegation of sexual misconduct and violence to the University which the Reporting Party knows to lack a basis in fact.

It is extremely rare for people to lie about sexual violence and misconduct. It should be noted that there is much misrepresentation on this matter due to widely held myths propagated by the media. It is noted that perpetrators of sexual misconduct and violence can make malicious reports against those to whom they have subjected abuse, e.g. countercomplaints. Durham University takes allegations of malicious reporting very seriously. Anyone identified as maliciously reporting can expect to be investigated in line with the relevant staff or student procedure. Furthermore, alleging that a report is false when it is not undermines the institution's commitment to eliminating sexual violence and will be taken into consideration during disciplinary investigations. It is important to emphasise that if a criminal prosecution or internal investigation does not conclude on the balance of probabilities that the reported behaviour took place it does not mean the person(s) reporting was doing so falsely.

Terminology

4.5 Consent: the agreement by choice where the individual has both the freedom and capacity to make that choice. Consent cannot be assumed based on a previous sexual experience or previously given consent, or from the absence of complaint. Each new sexual act requires a re-confirmation of consent as the foundation of a healthy and respectful sexual relationship. For example, if an individual has consented to protected sex with the use of a condom, new consent would be required for unprotected sex without a condom during the same interaction. Consent may be withdrawn at any time (including during sex) and can never be implied, assumed, or coerced.

4.5.1 Freedom to consent: For consent to be able to be given, the individual, along with having the capacity to give consent, must also be able to freely choose to participate in the specific sexual act. An individual is free to make a choice if nothing bad would happen to them if they said no. A person is not free to choose if they are threatened, intimidated, forced, coerced, and/or if there is an abuse of power present. Examples of acts of force are explained in section 4.3.10. Examples of abuse of power are explained in section 4.3.8.

4.5.2 Capacity to consent: For consent to be able to be given, the individual, along with being free to give consent, must have the capacity to give consent. Capacity means an individual is physically and/or mentally able to make a choice without their judgment being impaired and that they understand the consequences of that choice. 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 or state where their judgment is impaired due to substance. Incapacitation may occur on account of a mental or developmental disability, or as the result of alcohol or drug use. The age of consent for sexual activity is 16. The age of consent to take/have taken and/or send/receive intimate images is 18.

4.5.3 Alcohol and/or Drug Use impact on Consent: An individual can become incapacitated when their judgment becomes impaired due to substance use including, alcohol, illicit drugs, and/or mixing medication with other substances. 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, vomiting, 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. The onus is on each individual to ensure that the other party is not incapacitated before

engaging in sexual activity.

A Reporting Party will not be subject to discipline proceedings for using illicit substances at the time of being subjected to sexual misconduct and violence. Intoxication is never a defence for committing an act of Sexual Misconduct and Violence, or for failing to obtain consent. This may be considered an aggravating factor.

4.5.4 Affirmative Consent: If an individual has the freedom and capacity to consent, then if they are consenting they will provide words and/or non-verbal actions that demonstrates consent. Examples of consent may be saying yes and actively participating. Examples of when consent is not given may include not moving/being frozen, not actively participating, saying no, silence, saying 'maybe?'.

4.5.5 Under this policy, "No" always means "No," but "Yes" may not always mean "Yes." Anything but a clear, knowing, and freely given consent to any sexual activity is equivalent to a "No" at any point during a sexual encounter.

4.5.6 When considering if an incident was consensual or not, the University will consider whether the Reporting Party had the freedom to consent, the capacity to consent, and whether there were any words or actions that reasonably would lead a person in the position of the Responding Party to believe they had consent or words and actions that reasonably would lead a person in the position of the Reporting Party to believe they were not communicating consent. The following would mean the consent was not given: 1) The Reporting Party did not have the freedom to give consent; and/or 2) the Reporting Party did not have the capacity to give consent; and/or 3) the Reporting Party did not communicate through words or actions consent.

- 4.6 Disclosure:** a student or employee choosing to tell anyone who is part of the University community about their experience of Sexual Misconduct and Violence (different from Report).
- 4.7 Report:** a student or employee the sharing information of their experience of sexual misconduct and violence with a staff member of the University, by completing the SMV Reporting Form, or by submitting a named report on [Report + Support](#) for the purposes of initiating the investigation process by the University, as set out in this Policy and the accompanying procedures (different from Disclosure). A Report can also be made to the Police.
- 4.8 Reporting Party:** the person(s) who has been the subject of the alleged incident/s of Sexual Misconduct and Violence or other policy breach.
- 4.9 Responding Party:** the person(s) whose behaviour it is alleged amounted to an incident/s of Sexual Misconduct and Violence or other policy breach.
- 4.10 Trauma-informed:** means to understand the impact of trauma on an individual – including how a person may respond during a traumatic incident and present later, and to take precautions to minimise the risk of re-traumatisation and prioritise safety.
- 4.11 Confidentiality:** treating the information given with due consideration for its personal and sensitive content, limiting who has access to the information and ensuring it is stored securely. Confidentiality will be maintained, where possible, throughout the Disclosure, Reporting and investigative processes in recognition of the sensitive nature of Sexual Misconduct and Violence matters. As such, information will usually only be shared with relevant individuals/entities (who may be internal or external to the University, e.g., internal counsellors, witnesses, external experts from specialist agencies like Rape Crisis,

Sexual Assault Referral Centres or the Police) with the agreement of the Reporting Party. Internally, information will only be shared with staff on a need-to-know basis and discretion will be maintained at all time. The University reserves the right, and may be under an obligation, to share information in exceptional circumstances where such disclosure is necessary to protect any individual or the wider University community from harm or to prevent a crime from taking place. All individuals involved in any process under this Policy must keep information that is disclosed to them as part of the process confidential, to ensure the integrity of the investigative process. Any unauthorised disclosure of confidential information will be considered a Policy violation and will be addressed accordingly. Throughout all proceedings, the University will act in compliance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

5. Expectations of all staff, students and visitors

5.1 Do not perpetrate sexual misconduct and violence

5.1.1 Perpetrating any form of sexual misconduct and violence as outlined in the definitions section of this policy is misconduct and is never acceptable under any circumstances, and it may constitute a criminal offence. Perpetrating this behaviour is harmful to others' health and wellbeing.

5.1.2 The behaviour listed in this policy can be perpetrated in person or online. Members of Durham University are expected to adhere to this policy while using social media and any other form of online interaction including email communication.

5.1.3 All reports of sexual misconduct and violence will be taken seriously. Members of Durham University found to be behaving in this way will be dealt with under the appropriate internal disciplinary procedures.

5.1.4 The Reporting Party, the Responding Party and any Witnesses will be treated fairly, with dignity and confidentiality throughout any process and may access relevant support services.

5.2 Seek Consent

5.2.1 All members of Durham University are expected to seek consent when interacting with others. Consent is agreeing by choice and having the freedom and capacity to make that choice.

5.2.2 Consent cannot be assumed based on a previous sexual experience or previously given consent, or from the absence of complaint. Each new sexual act requires a re-confirmation of consent as the foundation of a healthy and respectful sexual relationship. For example, if an individual has consented to protected sex with the use of a condom, new consent would be required for unprotected sex without a condom during the same interaction. Consent may be withdrawn at any time (including during sex) and can never be implied, assumed, or coerced.

5.2.3 Additional information on how consent is defined can be found in section 4.5 of this Policy.

5.3 Act appropriately in the work/study environment

5.3.1 There are many sexualised behaviours that are never appropriate in a work/study environment. Durham University has a clearly defined [Close Personal Relationships between Staff Policy](#) and [Close Personal Relationships between Staff & Students Policy](#) which discourages intimate relationships between staff and students. There are many possible power dynamics that people should be conscious of: gender, race, sexuality, gender identity, disability, age, faith/belief, nationality are some of the factors covered in the Equality Act 2010 that may intersect with how power is exercised by some people over others. Members of Durham University are expected to recognise this in their interpersonal work/study relationships. Other factors may include class/socioeconomic status and if a position of authority is held.

5.4 Be an active bystander

5.4.1 The bystander effect is a social psychological phenomenon that occurs when the presence of others discourages an individual from intervening in a situation. This compounds people's experiences by normalising and accepting inappropriate behaviour. All members of Durham University have a responsibility to do or say something if they witness sexual misconduct and violence and it is safe to intervene.

5.5 Respond in a thoughtful and supportive way to disclosures

5.5.1 If someone tells you they have experienced sexual misconduct and violence, you should respond in good faith with the assumption that they are telling the truth. There are support services both on and off campus available if someone experiences any form of sexual misconduct and violence. At Durham University, we teach staff and students how to respond to disclosures as first responders – to BLOG: Believe, Listen, Offer Options and Resources and to Get Support for Yourself (as the responder after the disclosure). If you are not specially trained it is best to listen non-judgementally and direct someone to the support services within Durham University or externally such as The Meadows Sexual Assault Referral Centre. All staff who receive a disclosure from a student or employee are required to complete the SMV Disclosure Recording Form and send this to the Sexual Misconduct Prevention and Response Manager. This information is anonymised for trend monitoring purposes.

5.5.2 You can find out more information about support services by visiting [Report + Support](#).

6. Support

- 6.1 The University is committed to supporting survivors of sexual misconduct and violence to remain in their employment and/or studies.
- 6.2 The University is committed to providing support for those members of its community directly or indirectly affected by these issues. The University will provide information on support resources available and offer interim measures as appropriate to the Reporting Party, Responding Party, Witnesses and those supporting any of the aforementioned.
- 6.3 Support resources are available to any member of Durham University regardless of their choice to proceed to a report either to the University and/or the Police. Support is available even if the perpetrator is not a member of Durham University and/or if the incident/s occurred before joining the University. Support remains available irrespective of the outcome of an

internal or external investigation.

- 6.4 In cases where those involved are members of Durham University support for the Reporting Party and Responding Party will be separate; one member of staff will not provide support to both parties.
- 6.5 In the case of recent physical sexual violence (within the last 7 days) and if appropriate the Reporting Party may be signposted to a Sexual Assault Referral Centre or other external independent support agencies. Students and staff can access the local SARC through The Meadows SARC at <https://themedowsdurham.org.uk/>
- 6.6 Information about University and external support services can be found at [Report + Support - Durham University](#).
- 6.7 The Reporting Party and Responding Party may be signposted to the Students' Union Advice Service (for students) or their trade union (for employees) to access confidential advice.

7. Disclosure and Report

- 7.1 Making a Disclosure or a Report are separate actions that the Reporting Party may choose to take. From a trauma-informed approach, the University recognises the importance of minimising the number of times the Reporting Party must disclose an incident of Sexual Misconduct and Violence.

Disclosure

- 7.2 The process below will be initiated following receipt by the University of a Disclosure of an incident of Sexual Misconduct and Violence or related policy breach. The Disclosure may be received in a variety of ways and may not necessarily be brought forward by the Reporting Party.
- 7.3 A Disclosure may relate to a Responding Party who is or is not a member of the University community. A Disclosure does not automatically result in a Report to the University being made under the Sexual Misconduct and Violence Policy. In most cases, it is the Reporting Party's choice to make a report to the University and/or Police. The University respects the right of the Reporting Party to choose how to take forward a Disclosure.
- 7.4 Following a Disclosure, the Reporting Party will be given their reporting options along with information on resources for specialist support. The University recognises that the Reporting Party may require time and reflection before making a decision. The Reporting Party will be given the option and support to do one or more of the following:
 - a) report to the Police;
 - b) report to the University under the University's Sexual Misconduct and Violence Policy;
 - c) report to the Police and the University; and/or
 - d) make not Report of the incident but receive advice on the support that is available.
- 7.5 Staff will signpost anyone who discloses physical sexual violence to the local Sexual

Assault Referral Centre (SARC). Examples of physical sexual violence include rape, attempted rape, assault by penetration, sexual assault, engaging, or attempting to engage in a sexual act without the Reporting Party's consent, or sexually touching the Reporting Party without their consent. This will also allow the Reporting Party, if they choose, to make an anonymous report and have evidence stored while they choose if they want to report to the Police. Staff will signpost the Reporting Party to information from the Sexual Assault Referral Centre on how to preserve evidence. Staff can make a referral to the SARC on behalf of the Reporting Party with their agreement. Students and staff can access the local SARC through the Meadows SARC at <https://themeadowsdurham.org.uk>.

- 7.6 Staff who receive a Disclosure regarding any type of potential breach of the Sexual Misconduct and Violence Policy are required to complete the SMV Disclosure Recording Form and submit this to the Sexual Misconduct Prevention and Response Manager or SMV Case Managers as soon as practicable. They may, if the Reporting Party requests, omit the name of the Reporting Party and/or Responding Party. By informing the Sexual Misconduct Prevention and Response Manager, anonymised information will be used for trend monitoring purposes, and staff can seek support and advice regarding the disclosure if needed.
- 7.7 The purpose of the SMV Disclosure Recording Form is to support staff to appropriately record a disclosure of sexual misconduct and violence and to capture data on incidents to inform prevention and response initiatives. The form also serves as a record of the Reporting Party's first disclosure if the Reporting Party chooses to report the incident/s to the Police to achieve best evidence. Information recorded on the form may be used to provide support to the Reporting Party and will be used to provide advice and guidance to the member of staff who received the disclosure. In addition, information from the form may be used to inform decisions made in an Initial Review Meeting following a formal report to the Police and/or University

Report

- 7.8 The Reporting Party may choose to make a Report to the University under the Sexual Misconduct and Violence Policy with the intention of the University investigating a potential breach of policy.
- 7.9 To make a Report to the University, the Reporting Party may submit the SMV Reporting Form or complete the Named Report on the online Report + Support platform at <https://reportandsupport.durham.ac.uk/>.
- 7.10 Normally, a Report cannot be investigated if the Reporting Party does not wish the substance of the allegation to be made known to the Responding Party and/or if the Reporting Party wishes to remain anonymous.
- 7.11 Before any action is taken by the University, the Reporting Party will be asked to attend an initial meeting with a case manager, online or in-person, during which the procedure how the investigation will be conducted will be explained and the details of the report will be confirmed. If the Reporting Party is unwilling for the Responding Party to be informed of the allegation against them, the investigation cannot proceed. When the Reporting Party confirms they agree to participate in an investigation, this will be considered a 'confirmed Report' and the relevant investigation procedure will be followed.

- 7.12 Following receipt of a confirmed Report to the University or a report to the Police where the Responding Party is a student, the DLSMVO will instruct the Student Conduct Office or Human Resources to organise an Initial Review Meeting (IRM) as soon as is practicable. The Initial Review Meeting will confirm what support and precautionary measures will be offered during the investigation to all parties.

8. Equality, Diversity & Inclusion

- 8.1 Sexual Misconduct and Violence can be experienced by any individual, regardless of sex, gender, sexual orientation, relationship status, age, disability, faith, ethnicity, nationality and economic status. Women, members of the LGBT+ community, and individuals with disabilities are disproportionately affected by experiences of sexual violence.
- 8.2 **Intersectionality:** Experiences of sexual misconduct and violence may intersect with other forms of harassment and discrimination. This Policy must be relevant to people with intersectional experiences by ensuring those who are most marginalised are supported and that unconscious bias is considered and challenged.
- 8.3 To learn more about Durham University's approach to equality, diversity and inclusion visit the Equality and Diversity pages on the [website](#).
- 8.4 The University has the [Student Bullying & Harassment Policy](#) that addresses bullying, harassment and discrimination of students by other students, the [Policy and Procedure for Student Complaints of Harassment & Bullying Against Staff](#) that addresses bullying, harassment and discrimination of students by employees, and the [Staff Concerns Policy](#) that addresses bullying, harassment and discrimination of employees. During investigations into reports of sexual misconduct and violence, potential breaches under these related policies and procedures may be considered, where appropriate.

9. Responsibilities and Monitoring

- 9.1 The Director of Student Experience is the Lead Sexual Misconduct and Violence Officer (LSMVO) and is responsible for the application of the procedures associated with this Policy. The Head of the Student Conduct Office is the Deputy Lead Sexual Misconduct and Violence Officer (DLSMVO). The day-to-day management of the *Sexual Misconduct and Violence Policy* in relation to students will be overseen by the Student Conduct Office and employees by Human Resources. The key staff contacts are the Sexual Misconduct Prevention and Response Manager, the Head of Student Conduct Office, and the Director of Human Resources (or their delegates).
- 9.2 The University will maintain a central record of incidents to effectively engage in prevention and response initiatives. The Sexual Misconduct Prevention and Response Manager will keep a record of anonymised incident data regarding incidents involving students and/or staff during their time as members of the University community for trend monitoring purposes. This data will be gathered from Disclosures and Reports of Sexual Misconduct and Violence. Staff who receive a disclosure from a student or employee will submit the SMV

Disclosure Recording Form with named or anonymised data to the Sexual Misconduct Prevention and Response Manager, who can then record this for trend monitoring purposes. The LSVMO will ensure that the University Executive Committee, Audit and Risk Committee, Senate and Council are regularly provided with anonymised data concerning the cases that are dealt with under this and related procedures.

10. Police Investigations and Criminal Justice Proceedings

- 10.1 Reporting Parties will be supported to disclose incidents of Sexual Misconduct and Violence to the University, and to choose and assess the course of action that is most appropriate for them whether they wish to report to the University and/or Police or seek support only.
- 10.2 Where a criminal investigation or judicial proceedings are ongoing or are likely to commence in respect of a Disclosure, the University can receive a Report of Sexual Misconduct and Violence. In the interest of not causing impediment to the criminal proceedings, the University will not normally commence an internal investigation or will normally suspend an ongoing investigation pending the conclusion of the criminal justice process when the report is against a student. In cases where a report is made against an employee, the University will take advice from the police on when an internal investigation can begin. In all instances the University will undertake necessary precautionary action to support the safety of all parties involved and the wider University community during an investigation / criminal proceeding.
- 10.3 Reports to the University and/or to the Police relating to Sexual Misconduct and Violence will be considered at an Initial Review Meeting (IRM). An IRM may also be called after the conclusion of a criminal investigation or judicial proceedings where there are issues outstanding and pertinent to the student/s and/or employees involved.
- 10.4 A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action in relation to a criminal matter or an acquittal at a trial does not preclude the University from taking action internal action to consider misconduct and does not mean the Reporting Party has made a vexatious or malicious report.
- 10.5 In all cases, the University will advise the Reporting Party that it does not have the legal investigatory powers of the Police and cannot decide on criminal guilt. An internal investigation is focused exclusively on whether a breach of the University's Sexual Misconduct and Violence Policy has occurred. The internal process cannot therefore be regarded as a substitute for a Police investigation or criminal prosecution. Nor can the outcome of this procedure be linked to criminal guilt.
- 10.6 Where a student or employee has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of the University's Sexual Misconduct and Violence Policy, the conviction/caution will be taken as conclusive evidence that the behaviour took place and no further investigation shall be required by the University. The relevant internal disciplinary process will be followed without repeating an investigation.

11. Related Information

11.1 This Policy should be read in conjunction with the following Regulations, Policies and Procedures:

- Sexual Violence and Misconduct Procedure for Staff
- General Regulation IV – Discipline
- Non-Academic Misconduct Disciplinary Procedure
- General Regulation VI – Suspension
- Staff Concerns Policy
- Student Behaviour in Appeals and Complaints: A Code of Practice
- Durham University Safeguarding Policies
- Conflict of Interest & Close Personal Relationships

11.2 Further information can be found at <https://www.dur.ac.uk/sexualviolence/>.

Further Information and References

This document was approved by University Council on 10 December 2024.

Further University policies are available from the [Policy Zone](#).

Contact for further information: Student Conduct Office (student.cases@durham.ac.uk)