



UCP-DIS002 Higher Education Dealing with unacceptable behaviour, harassment or sexual misconduct Policy

1. INTRODUCTION

- 3.1 To support students in Higher Education and provide consistency across the sector, HE providers are required to have policies and procedures in place to prevent and respond to incidents of harassment and sexual misconduct. This policy has been developed in line with the expectations of the Office for Students and ensures that Higher Education students will be protected from harassment and sexual misconduct from other students, staff and visitors. It should be understood that this policy also includes harassment and sexual misconduct undertaken through any medium, including for example online.
- 3.2 Any issues raised under these regulations will be dealt with promptly, sympathetically and with respect for privacy and confidentiality. Information will only be disclosed to other parties as is necessary for the investigation of a case, or for safeguarding reasons, or as required by law, or as is required by the relevant professional, regulatory or statutory body.

2. PURPOSE

- 3.3 This policy applies if concern is raised about unacceptable behaviour. It is designed to make sure that we take appropriate action in the best interests of the public, the profession and you.

3. SCOPE

- 3.4 This policy applies exclusively to all Higher Education provision offered by University Centre Peterborough. This also applies to sub contractual provision.
- 3.5 Harassment (as defined by Section 26 of the Equality Act 2010) includes unwanted behaviour or conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment because of, or connected to, one or more of the following protected characteristics:
- age
 - disability
 - gender reassignment
 - race
 - religion or belief
 - sex
 - sexual orientation
- 3.5.1 Harassment includes domestic violence and abuse (which can also involve control, coercion, threats), and stalking.

- 3.5.2 We would also consider harassment to include any incidents of physical violence towards another person(s) on the basis of a protected characteristic, and hate crimes, such as those criminal offences which are perceived by the victim or any other person, to be motivated by hostility or prejudice, based on a person's disability or perceived disability; race or perceived race; or religion or perceived religion; or sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity.
- 3.6 Sexual misconduct relates to all unwanted conduct of a sexual nature. This includes, but is not limited to:
- Sexual harassment (as defined by Section 26 (2) of the Equality Act 2010)
 - Unwanted conduct which creates an intimidating, hostile, degrading, humiliating or offensive environment (as defined by the Equality Act 2010)
 - Assault (as defined by the Sexual Offences Act 2003)
 - Rape (as defined by the Sexual Offences Act 2003)
 - Physical unwanted sexual advances (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017)²
 - Intimidation, or promising resources or benefits in return for sexual favours (as set out by the Equality and Human Rights Commission: Sexual harassment and the law, 2017)
 - Distributing private and personal explicit images or video footage of an individual without their consent (as defined by the Criminal Justice and Courts Act 2015).
- 3.4 As outlined in the EHRC guidance on freedom of expression published in February 2019, exposure to course materials that students might find offensive or unacceptable is unlikely to constitute harassment.

4. RELATED DOCUMENTS

Available from www.ucp.ac.uk/policies/
 UCP-COM001 HE Student Complaints Policy
 UCP Terms and Conditions of Admissions and Enrolment
 UCP- DIS001 Higher Education Student Disciplinary Policy
 UCP-FIT001 Higher Education Fitness to Practise Policy
 UCP-FIT002 Higher Education Fitness to Study Policy
 UCP-ASS004 Higher Education Academic Misconduct Policy
 UCP Higher Education Student Charter
 Staff Disciplinary Policy (Available on request)

5. RESPONSIBILITIES

- 5.1 The Academic Director has overall responsibility for the policy but has delegated day-to-day responsibility for overseeing its implementation to the staff identified. All relevant members of staff have been made aware of the procedure and have received appropriate training.

6. RISK ANALYSIS

- 6.1 This policy is required to ensure that any instance of unacceptable behaviour is fairly evaluated and supported by the institution as bound by UK legislation. This policy is dependent on the student communication and evidence.

6.2 Analyse risks of non-adherence to this policy

6.3 Failure to adhere to this policy could lead to academic failure of students, complaints and in extreme cases, legal action with regard to the Equality Act 2010 and the Sexual Offences Act 2003.

6.4 Staff and student training needed

6.5 Training will be made available to staff and students on an ongoing basis to raise awareness of harassment and sexual misconduct with the purpose of preventing incidents and enabling effective reporting should they occur.

7. DATA PROTECTION

7.1 UCP complies with the provisions of the General Data Protection Regulation Data Protection Act, 2018. As such, applicants' and student data are treated as confidential by all staff involved in this process and is not divulged unnecessarily or inappropriately. However, the Act requires UCP to release certain information to UK authorities upon request in order to assist those authorities with the prevention and detection of fraud or other crimes. We will release the requested information on receipt of an appropriate request from UK authorities such as (but not limited to) the police, Home Office (for immigration and related matters), local authorities, and the Department for Work and Pensions. We may use anonymised data collected for the purpose of fulfilling statistical and reporting requirements.

PROCEDURE

8. Introduction

8.1 If you feel you are being harassed, bullied or are the victim of any other form of unacceptable behaviour which distresses you, you do not have to put up with it, and you are not to blame. There are several ways in which you can deal with the problem, from simply saying that you find someone's behaviour unacceptable and asking them to stop, to making a formal complaint which could result in criminal action.

8.2 Incidents of alleged unacceptable behaviour are best and usually sorted out informally and we encourage this wherever possible. The person who is causing you distress may not be aware that you find their behaviour offensive or intimidating and a simple explanation may be enough to deal with the matter. If you feel it is not appropriate, or you would prefer not to tackle the problem informally, you can start formal procedures.

8.3 You should keep a written record of the incidents that have caused you distress including the time, date, place and a full description of what happened, including the names of the people concerned and the names of any witnesses.

8.4 We also encourage you to act promptly. Try not to wait until the situation is so unbearable that you feel you must leave this university or that your personal wellbeing is at risk. The Student Council will give you help and protect your interests in trying to deal with the problem.

8.5 Any complaints you make of alleged unacceptable behaviour, and any investigation, no matter what the result, will not affect your ability to continue your course of study.

However, if we find out that any complaint is malicious or made for reasons which are not genuine, we may take disciplinary action.

- 8.6 We will maintain confidentiality wherever possible in dealing with cases of alleged unacceptable behaviour. This means we will only release information on a 'need-to-know' basis.
- 8.7 You may ask us to keep your name anonymous when making a complaint of alleged unacceptable behaviour, but this may prevent us from taking any action and liaising with the police or other bodies.

9. Where to get support and advice

- 9.1 You should contact the Student Support Centre, who provide guidance and help to all our registered students. The Student Support Centre can give you independent advice and support. The Student Support Centre has a team of professionally trained and experienced personnel to support your mental health and wellbeing. They use a referral service when necessary. The service is confidential, and you can make an appointment to see a counsellor via the Student Support Centre. You can find contact details for student services and the Student Officer, as well as other sources of advice and support in your student handbook, Student Charter and on our website. <https://www.ucp.ac.uk/welfare/>
- Further resources are available from the Office for Students <https://www.officeforstudents.org.uk/for-students/student-rights-and-welfare/harassment-hate-and-sexual-misconduct/>
- <https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/student-safeguarding-evaluation-and-resources/>
- 9.2 However, if you feel your personal safety is at risk, act immediately. You should report these incidents immediately to UCP reception. Harassment and Sexual; misconduct are criminal offences, and your case may be taken up by the Police and dealt with in the criminal courts.
- 9.3 Whether or not this is the case, we will give you appropriate advice and support. We will normally suspend the person you say has committed the offence, in line with the conditions of our staff and student disciplinary procedures. Our actions will be informed by guidance sought from the Police.

10. Taking action informally

- 10.1 There are a number of ways you can sort the matter out. You should consider your options carefully before you decide which action you want to take.
- 10.2 If you feel able to, approach the person and make it clear that their behaviour is offensive to you and that you want it to stop. If you want to, you can do this with the support of a fellow student, or a Student Council representative, or the Student Officer or a member of staff from the Student Support Centre. You may want to tell your personal tutor or another member of academic staff on your course that a situation has developed which you are trying to sort out informally in the first instance.
- 10.3 You may feel more comfortable writing a letter to the person concerned, explaining that

their behaviour is causing you distress and telling them you want it to stop. A friend, the Student Officer or Student Council representative can help you write this if you want.

- 10.4 This may be enough to sort the problem out. If it does not, or if you do not want to tackle the problem in this way, you can refer it directly to the Deputy Director. They will then tell the alleged harasser, informally on your behalf, that their behaviour is unwelcome and should stop immediately.
- 10.5 You can, at any stage, make a formal complaint to management. However, you will not be able to go back to an informal approach to sorting out the alleged harassment or bullying once formal proceedings begin.

11. Making a formal complaint

- 11.1 If you prefer to resolve the situation formally, or if the situation is so severe that dealing with it informally is not appropriate, you can make a formal complaint. If the alleged harasser is a member of staff, you should use our student complaints procedure. If the complaint is about another student, you should use our student disciplinary procedure. You can find both in the 'rules, regulations and procedures for students' document and online. We may be able to extend the normal three-month time limit for sending in complaints under the dignity at work and study policy, depending on current laws.
- 11.2 If you make a complaint of harassment or sexual misconduct, you can complain to a senior member of staff of your own sex. In these cases, you should approach the Student Officer or the Deputy Director to identify an appropriate manager. When we receive a formal complaint, the investigating manager will send a written acknowledgement, telling you where you can get advice and support.
- 11.3 We will treat any complaint raised with a member of management very seriously and keep a careful, accurate record of the complaint.
- 11.4 In serious cases, we will consider suspending the alleged harasser while we investigate the case. The suspension will be on the authority of the Academic Director, or, as otherwise arranged. It should be noted that staff suspensions will be undertaken by Human Resources. The alleged harasser has a right of appeal in line with the procedures approved by the UCP Council.
- 11.5 At this stage we would also offer counselling and further support to the victim.
- 11.6 We will investigate the matter to see how best we can sort out the complaint, considering all available facts. Depending on the outcome of the investigation, the investigating manager will decide whether the best course of action is to:
- take no further action – where the facts of the case suggest the complaint cannot be proved, felt to be unjustified or the evidence is not sufficiently clear;
 - hold a conciliatory meeting – where we believe that a meeting between the two sides, accompanied by appropriate members of management, could lead to a satisfactory solution;
 - arrange counselling or training for the alleged offender – where we feel this will correct the behaviour or sort the situation out; or

- take disciplinary action – if the facts of the case suggest that disciplinary action is appropriate. If the alleged offender is a member of staff, the investigating manager will refer the case to Human Resources Department at IEG. If the alleged offender is a student, the investigating manager will refer the matter to the Academic Director.

11.7 Any disciplinary action will reflect how serious the offence is. We will take this action in line with the appropriate disciplinary procedures for staff or students. We will treat incidents of harassment and sexual misconduct as gross misconduct in the case of staff. This may result in dismissing them. If a student is involved, we will treat the incidents as misconduct, which may result in them being suspended or expelled.

11.8 We treat any resulting victimisation or retaliation by the offender as a highly serious matter. If this happens, you should, as soon as possible, inform the Student Support Centre.

12. Appeals

12.1 A student whom we take any action against will have the right of appeal to the UCP Council. Details are available in the UCP Complaints Policy.

13. More information

13.1 This procedure will also apply when dealing with complaints of alleged unacceptable behaviour, harassment or sexual misconduct made by staff, if a student is involved.

13.2 This procedure will apply equally to cases of alleged unacceptable behaviour, harassment or sexual misconduct by, or of, groups of students as well as individuals.

13.3 The decision to act to deal with a case of alleged unacceptable behaviour, harassment or sexual misconduct normally rests with the individual concerned. However, senior managers have the right to begin an investigation without someone having made a complaint.