

POLICY NAME Higher Education Sexual Misconduct and Harassment Policy			
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1. Purpose

- 1.1. University Studies at West Suffolk College (US) is committed to providing an inclusive safe and supportive campus for all where everyone is treated with dignity and respect. All members of US community share a responsibility to create and maintain a safe and welcoming environment on campus.
- 1.2. US is wholly committed to implementing relevant UK legislation and best practice recommended from relevant national bodies such as Office for Students, and Universities UK.
- 1.3. Any incident of harassment and sexual or physical misconduct will be regarded very seriously and any such behaviours which constitute a breach of US's General Regulations for Students and may be grounds for disciplinary action including suspension and exclusion from US.
- 1.4. US aims to:
 - 1.4.1. promote a positive environment in which all members of US community are treated fairly and with respect.
 - 1.4.2. provide a framework of support for students involved in any complaints or allegations.
 - 1.4.3. provide a mechanism for the resolving of disputes within the context of US's regulations. US has the Free Speech Code of Conduct and this position regarding freedom of speech will be in accordance with relevant extant legislation.
 - 1.4.4. US's commitment to the protection of freedom of speech does not undermine the commitment to combating harassment and where speech is not protected by law appropriate disciplinary procedures will be followed.
- 1.5. The purpose of this policy is to maintain a single comprehensive source of information outlining the US position in relation to harassment, in all its forms, and sexual or physical misconduct.

2. Scope

- 2.1. This policy applies to students registered with US for a programme of study, whether that is full-time or part-time.
- 2.2. Organisations that operate or deliver any activity on behalf of US or on US premises are expected to uphold the standards, or similar standards, outlined in this policy.
- 2.3. US will offer or signpost student to appropriate support and advise on the choices available to the reporting party.
- 2.4. US will investigate allegation of misconduct against a student under the US Student Disciplinary Procedure and possibly refer the case through the US Fitness to Practise Procedure if the student is registered on a course leading to a professional qualification.
- 2.5. Separate policies and procedures exist for concerns relating to harassment and sexual or physical misconduct from staff members, Staff Code of Conduct. Where the concern involves both staff and students the matter may be

investigated jointly with involvement from Human Resources and US to apply the appropriate regulations, policies and procedures

3. Harassment from a position of trust

- 3.1. Harassment can arise between people of unequal status, whereby a person in a position of authority harasses a person in a more junior position. US values good professional relationships between staff and students. This is seen to be especially important where staff have some specific academic, other professional or institutional responsibility for students. Any act of harassment will be regarded by US as particularly serious if it involves the abuse of a position of authority or trust, for example, where there are:
- 3.1.1. explicit or implicit promises of rewards for compliance that are a misuse of institutional position (e.g. higher assessment marks for a student);
 - 3.1.2. explicit or implicit threats of penalties for non-compliance or complaint that are a misuse of institutional position (e.g. unreasonable refusal to provide appropriate support/advice/references or resources).
- 3.2. US is part of the Eastern Education Group (EEG) which has many students who are under the age of 18. Sections 16-24 of the Sexual Offences Act 2003 provides a criminal offence of abuse of position of trust where a person engages in sexual activity with an under-18 whilst holding a position of trust over the under-18. Such students are minors in the eyes of the law, and US thus owes them an enhanced duty of care until they reach the age of majority (18 years). The EEG Safeguarding Children and Adults at Risk Policy outlines the enhanced support arrangements in place for such students, including the provision of a Designated Child Protection Officer whom staff (and others) should contact if they believe that any under-18-year-old student is in any way at risk, including risk of bullying or other abuse.
- 3.3. Additionally, many students on professional courses that involve placements are likely to encounter children or vulnerable adults (including those with certain disabilities and specific learning difficulties) in the placement environment. If abuse is encountered or suspected, it is particularly important that action is taken as quickly as possible. Students in schools should follow their local guidance on reporting abuse. If the abuse is taking place outside a placement environment, or when the reporter wishes to maintain confidentiality, they may initially raise their concerns with the Designated Safeguarding Lead.

4. Types of harassment

- 4.1. US applies the following definitions of harassment:
- 4.1.1. A person (A) harasses another person (B) if A engages in unwanted conduct and the conduct has the purpose or effect of violating B's dignity,

or creating an intimidating, hostile, degrading, humiliating or offensive environment for B

- 4.1.2. A person (A) harasses another person (B) if A treats B less favourably because B either rejected, or submitted to, unwanted conduct (either from A or another person) and the conduct has the purpose or effect of violating B's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for B
- 4.1.3. A person (A) harasses another person (B) if A engages in repeated unwanted conduct on at least two occasions that has the purpose or effect of making B feel alarmed, threatened, scared or distressed
- 4.2. This definition relates to harassment under the auspices of The Protection from Harassment Act 1997 and the Equality Act 2010. Both Acts are described in more detail in the sections below.
- 4.3. Harassing behaviour can come in many different forms which are explored in more detail below:
- Harassment related to identity: where the behaviour relates to the 'protected characteristics' in anti-discrimination legislation as defined by the Equality Act 2010.
 - Sexual Misconduct: where the behaviour is of a sexual nature, as defined by Section 26 (2) of the Equality Act 2010. Sexual harassment or unwanted behaviour of a sexual nature can also constitute a criminal offence.
 - Hate Crime: Harassment on the grounds of disability, race or ethnicity, religion or belief, sexual orientation or transgender identity can also constitute a hate incident or hate crime (see section 7 below).
 - Bullying and Abuse: where the behaviour has the same purpose or effect as harassment related to identity, but which has no strict legal definition
 - Abuse in relationships: incidents of controlling, coercive threatening behaviour, violence or abuse between intimate partners or family members
 - Online-Bullying: where the behaviour is assisted by information communication technology, the legal implications of which are varied, but may be legislated against in the Malicious Communications Act 1988, the Communications Act 2003, or the Criminal Justice and Courts Act 2015 (in the case of 'revenge porn').
 - Physical Misconduct: where behaviour towards another has become physical.
 - Harassment by course of conduct, and stalking: where the behaviour would amount to a 'course of conduct' causing alarm or distress on at least two occasions, as defined by the Protection from Harassment Act 1997.

5. Harassment Related to Identity

5.1. The Equality Act 2010 introduced a standard definition of harassment which is applied by US as described above. The Act specifically prohibits harassment and discrimination in relation to 'protected characteristics'. The protected characteristics are:

5.1.1. Age - Age related harassment refers to unwanted behaviour relating to a person's age or perceived age. Examples could include:

- being patronised as being 'too young' to understand or do something
- being isolated or excluded from a seminar group because you're 'too old'.

5.1.2. Disability - Disability related harassment refers to unwanted behaviour related to disability, impairment or additional need and can include perceived disability. Examples could include:

- giving demeaning uninvited or un-necessary assistance
- patronising or 'talking down' to someone with a disability

5.1.3. Gender Reassignment - Harassment on the grounds of gender reassignment refers to unwanted behaviour related to transgender, transsexual or transvestite identities. 'Trans' is an inclusive term used to describe people who: have undergone, are undergoing or will undergo gender transition (commonly called a 'sex change'); identify as someone with a different gender from the sex to which they were born, but who may have decided not to undergo medical treatment; or someone who chooses to dress in the clothing typically worn by a person of another gender. Examples could include:

- inappropriate moralising about a person's gender reassignment
- being ridiculed for wearing clothing traditionally associated with another gender.

5.1.4. Marriage and Civil Partnership - Discrimination on these grounds refers to unwanted behaviour relating to your marital or civil partnership status. Examples could include:

- the Crown Prosecution Service has provided guidance on what social media communications may be prosecutable:
- being isolated or excluded from a group because you are married or in a civil partnership

5.1.5. Pregnancy and Maternity - Discrimination on these grounds refers to unwanted behaviour relating to being pregnant or having recently (within 26 weeks) given birth. Examples could include:

- being told to stop breastfeeding in public.

5.1.6. Race – Racial harassment refers to unwanted behaviour related to race or ethnic background, which can include nationality, citizenship and language. Examples could include:

- ridiculing racial, ethnic or cultural differences
- using racist symbols (for example Nazi swastikas)
- ridiculing someone for their use of language.

5.1.7. Religion or Belief (including Non-belief) - Harassment on grounds of religion or belief refers to inappropriate and unwanted behaviour related

to someone's religion, or lack of religion, or any religious or philosophical belief including a lack of belief. Examples could include:

- ridiculing items worn for religious reasons
- denigrating cultural customs
- derisory comments against an individual's beliefs
- aggressive proselytising and the pushing of religious propaganda
- the singing of sectarian songs.

5.1.8. Sex - Sexual harassment can occur in a variety of ways but always has a distinctive feature: the inappropriate and unwanted introduction of sexual comments or comments that relate to a person's sex. Examples of Sexual Harassment could include:

- comments that emphasise the gender or sexuality of an individual or a group
- sexually suggestive and unwelcome comments and/or gestures
- persistent unwelcome requests for social or sexual encounters and favours
- display of, or electronic transmission of, pornographic, degrading or indecent pictures
- unnecessary and unwelcome physical contact with non-intimate areas of the body.

5.1.9. Sexual Orientation - Harassment on these grounds refers to unwanted behaviour relating to a person's known or presumed sexual orientation. In law, sexual orientation is taken to mean a person's sexual orientation towards people of the same sex; people of the opposite sex, or people of both sexes, but for US's purposes this could include people who feel they have no sexual orientation (asexual). Examples could include:

- intrusive questioning about a person's domestic circumstances and/or sexual preferences
- excluding same-sex partners from social events
- actual or threatened unwanted disclosure of sexuality, i.e. 'outing'

6. Sexual Misconduct

- 6.1. Where the behaviour is of a sexual nature, as defined by Section 26 (2) of the Equality Act 2010. Sexual harassment or unwanted behaviour of a sexual nature can also constitute a criminal offence.
- 6.2. Rape: A person (A) commits an offence of rape if: he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis, B does not consent to the penetration and A does not reasonably believe that B consents.
- 6.3. Assault by Penetration: A person (A) commits an offence if: they intentionally penetrate the vagina or anus of another person (B) with a part of her/his body or anything else, the penetration is sexual, B does not consent to the penetration and A does not reasonably believe that B consents.
- 6.4. Sexual Assault: A person (A) commits an offence of sexual assault if: they intentionally touch another person (B), the touching is sexual, B does not consent to the touching and A does not reasonably believe that B consents.

- 6.5. Sexual harassment: For this advice, when referring to sexual harassment we mean ‘unwanted conduct of a sexual nature’ that can occur online and offline. When we reference sexual harassment, we do so in the context of student-on-student sexual harassment. Sexual harassment is likely to: violate a student’s dignity, and/or make them feel intimidated, degraded or humiliated and/or create a hostile, offensive or sexualised environment. Sexual harassment can include:
- 6.5.1. sexual comments, e.g. telling sexualised stories, making lewd comments, making sexual remarks about clothes and appearance and calling someone sexualised names.
 - 6.5.2. sexual “jokes” or taunting.
 - 6.5.3. physical behaviour, such as deliberating brushing against someone, interfering with someone’s clothes (colleges should be considering when any of this crosses a line into sexual violence - it is important to talk to and consider the experience of the victim) and displaying pictures, photos or drawings of a sexual nature; and
 - 6.5.4. online sexual harassment, which might include non-consensual sharing of sexual images and videos and sharing sexual images and videos (both often referred to as sexting); inappropriate sexual comments on social media; exploitation; coercion and threats. Online sexual harassment may be standalone, or part of a wider pattern of sexual harassment and/or sexual violence.
 - 6.5.5. Harmful sexual behaviours: All the above examples come under the umbrella term is “harmful sexual behaviours”. Student’s sexual behaviours exist on a wide continuum, from normal and developmentally expected too inappropriate, problematic, abusive and violent. Problematic, abusive and violent sexual behaviours are developmentally inappropriate and may cause developmental damage.
- 6.6. What is consent? Someone consents to vaginal, anal or oral penetration only if they agree by choice to that penetration and has the freedom and capacity to make that choice. Consent to sexual activity may be given to one sort of sexual activity but not another, e.g. to vaginal but not anal sex or penetration with conditions, such as wearing a condom. Consent can be withdrawn at any time during sexual activity and each time activity occurs.

7. Hate Crime

- 7.1. A hate incident is any incident which is perceived by the victim or anyone else to be motivated by hostility or prejudice based on:
- Disability
 - Race or Ethnicity
 - Religion or Belief
 - Transgender identity, or
 - Sexual Orientation
- 7.2. The following are examples of hate incidents:

- a student is assaulted physically. The offender did this because they thought the student was gay. Whether the student is or not, this will be classed as a homophobic incident
 - the home of a Chinese student had its windows smashed. The student believes that the windows were smashed because she is Chinese. Even if the police can never prove whether or not the windows were smashed because she is Chinese, this will be recorded as a racist incident.
- 7.3. If you are a victim or witness to a hate incident, it is important to report it to the Police. You can also report it anonymously through Crime Stoppers on 0800 555 111. The student support services are available to help you through this process.
- 7.4. If after investigation by the Police they determine that the incident constituted a crime, the hate incident will be referred to as a Hate Crime. Students should be very careful about making flippant remarks related to any protected characteristic. The Police are obliged to investigate every hate incident reported to them.

8. Bullying and Abuse

- 8.1. Bullying is unwanted behaviour which humiliates and/or undermines an individual or group and need not be related to a 'protected characteristic' under law. Bullying may be carried out by an individual or group of individuals and can happen in public or in private. Examples of bullying could include being:
- shouted at and/or subjected to sarcasm
 - verbally and/or physically abused
 - told off in front of fellow students, staff or other people
 - derided or belittled about work, personality and/or personal appearance
 - persistently ignored and/or talked down to
 - subject to practical jokes
 - subject of malicious rumours or gossip
 - excluded or ostracised.

9. Abuse in relationships

- 9.1. Bullying and abusive behaviour can go on even in apparently loving relationships. It can start with verbal or emotional abuse and could happen to anyone, including students in same-sex relationships.
- 9.2. Verbal and emotional abuse can often escalate into physical abuse, by which time a person's emotional well-being is likely to be damaged.
- 9.3. Abusive behaviour can be violent (hitting, kicking, slapping); emotional (humiliating and putting you down), or sexual (forcing you to engage in sexual activity unwillingly). Examples of abusive behaviour could include:
- extreme jealousy
 - anger when you want to spend time with your friends and/or family

- trying to control your life (how you dress, who you spend time with and what you say)
- threatening to harm you or to self-harm if you end a relationship
- demanding to know where you are all the time
- monitoring your calls, text messages and/or emails
- using physical force during an argument
- being verbally abusive and calling you names
- threatening behaviour towards your friends
- 'guilt-tripping' you into having sex when you don't want to

10. Online Bullying

10.1. Harassment does not necessarily happen face-to-face; it can occur by means of electronic information communication technology, such as telephone, email, text message, social media and networking sites, instant-messaging, web pages, and blogs. Examples of online bullying could include:

- Denigration
- Flaming
- Non-consensual filming or photographing
- Recorded Assault
- Impersonation
- Outing and trickery
- Revenge Porn
- Sexting
- Trolling

11. Physical Misconduct

11.1. Occasionally harassing and bullying behaviour can include physical violence. Examples of physical misconduct can include:

- Punching
- Kicking
- Spitting
- Slapping
- Pulling hair
- Biting

11.2. Most cases of physical violence can constitute a criminal offence, such as common assault, assault by beating, actual bodily harm, or grievous bodily harm.

12. Harassment by course of conduct, and stalking

12.1. Harassment can involve being subject to persistent and unwanted behaviour from someone where the behaviour does not appear to be related to any of the 'protected characteristics' discussed above or where the nature of the

behaviour may not be 'bullying' as is commonly understood. Examples of harassment by course of conduct could include:

- being followed or watched (commonly referred to as 'being stalked')
- being frequently contacted either in person or by social media
- receiving anonymous phone calls or text messages
- being sent unwanted bunches of flowers, other gifts or take-away deliveries

- 12.2. The perpetrator could be known to the student (such as an ex-boyfriend or ex-girlfriend, an estranged family member, someone who thinks that a relationship exists with the person, or someone who has a grudge against a person following a disagreement or other incident) or someone who is unknown and has an unwanted interest in the student for no clear reason. Sometimes the student may never know the reason for the other person's behaviour, but they will know that the behaviour is unwelcome and distressing.
- 12.3. Under the Protection from Harassment Act 1997 it is both a criminal and civil offence for a person (A) to pursue a 'course of conduct' which amounts to harassment, or which A knows or ought to know amounts to harassment if a reasonable person would think the course of conduct amounted to harassment.
- 12.4. Harassment under the auspices of this act is defined as a course of conduct causing alarm or distress on at least two occasions.
- 12.5. Students should rest assured that US will not confirm or deny to an external caller or visitor that a person is a student here, nor will it give out any personal information in person, by phone, or by electronic means to anyone without a student's express consent (except where legally required to do so by the Police or other law enforcement agencies).
- 12.6. US can undertake safeguarding assistance if a student is being stalked by a student or staff member, but if the stalker is not a member of the US the response will be more limited. In such cases we advise students to contact the Police and US will work with the Police as appropriate and necessary and offer practical assistance to minimise risk to students.

13. US Responsibilities

- 13.1. US has a statutory duty to safeguard and promote the welfare of the student at college. US is required to have regard to guidance issued by the Secretary of State. US must have regard to Keeping Children Safe in Education and Working Together to Safeguard Children.
- 13.2. US should be aware of obligations under the Human Rights Act 1998 (HRA).
 - It is unlawful for US to act in a way that is incompatible with the European Convention on Human Rights. These rights include:
 - Article 3: the right to freedom from inhuman and degrading treatment (an absolute right).
 - Article 8: the right to respect for private and family life (a qualified right) includes a duty to protect individuals' physical and psychological integrity
 - Article 14: requires that all the rights and freedoms set out in the Act must be protected and applied without discrimination;¹⁹ and

- Protocol 1, Article 2: protects the right to an effective education. Being subjected to sexual violence or sexual harassment may breach any or all these rights, depending on the nature of the conduct and the circumstances.

13.3. Equality Act 2010 (the Equality Act) advice for further and higher education.

- US must not unlawfully discriminate against students because of their sex, race, disability, religion or belief, gender reassignment, pregnancy or sexual orientation (protected characteristics).
- Support students regarding their sex, sexuality and if appropriate gender reassignment.
- Take positive action, where it can be shown that it is proportionate, to deal with particular disadvantages affecting one group.

13.4. Protection from Harassment Act 1997

- Under the Protection from Harassment Act 1997 it is both a criminal and civil offence for a person (X) to pursue a 'course of conduct' which amounts to harassment or which X knows or ought to know amounts to harassment if a reasonable person would think the course of conduct amounted to harassment.¹² Harassment under the auspices of this act is defined as a course of conduct causing alarm or distress on at least two occasions.

14. Disclosure and Reporting

14.1. A disclosure occurs when a student or staff member communicates with someone in the University community about their experience of harassment or sexual misconduct. A disclosure can be made in person to Student Welfare – located on the WSC Sixth Form site or at arranged times in UPDC or via the US Personal Support Tutor or via other means such as telephone or digital communication such as Teams or email. Students may also disclose online via the [report tool](#). Students can make an anonymous disclosure, but with disclosing anonymously US will not be able to take any direct action or provide any further advice and support. US will use the information to better understand the issues within our community, to identify trends and shape our prevention and support provision.

15. Confidentiality and Information Sharing

- 15.1. Maintaining confidentiality is paramount to upholding the integrity of the process and safeguarding the validity of the investigation process. Preserving confidentiality leads to a more robust and reliable investigation process allowing for a fair and unbiased examination of the evidence.
- 15.2. As a matter of effective safeguarding practice, staff should do all they reasonably can to protect the anonymity of any student involved in any report of sexual violence or sexual harassment. Amongst other things, this will mean carefully considering, based on the nature of the report, **which staff should know about the report and any support that will be in place for the student involved.**

US should also consider the potential impact of social media in facilitating the spreading of rumours and exposing victims' identities.

- 15.3. US recognises that at times those who have experienced sexual misconduct and those under investigation may need to share information. The details around confidentiality, information sharing and how student data is held are set out in the EEG Data Protection Policy.

16. Immediate response

- 16.1. The victim will be reassured that they are being taken seriously and that they will be supported and kept safe.
- 16.2. We accept that the victim may not make a direct report or disclosure. For example, a friend may make a report, or a member of college staff may overhear a conversation that suggests a student has been harmed and we will act on this.
- 16.3. If the alleged incident is between two students from the college but is alleged to have taken place away from the college premises, we will still act.
- 16.4. Recognising a student is likely to disclose to someone they trust: this could be anyone on the college staff. It is important that the person to whom the student discloses recognises that the student has placed them in a position of trust. They should be supportive and respectful of the student.
- 16.5. Listening carefully to the student, being non-judgmental, being clear about boundaries and how the disclosure will be progressed, not asking leading questions and only prompting the student where necessary with open questions – where, when, what etc.
- 16.6. Considering the best way to make a record of the disclosure, disclosures will be recorded on intuition and staff will be asked to report incidents in person or by telephone to student welfare or via the QR code.
- 16.7. Staff taking a disclosure should never promise confidentiality as it is highly likely that it will be in the best interests of the victim to seek advice and guidance from others to provide support and engage appropriate agencies.
- 16.8. US will take in to account the interests and welfare of both students and endeavour to treat them fairly and equally when undertaking the risk assessment and ascertaining the potential effectiveness.
- 16.9. US should only engage staff and agencies who are required to support the student involved and/or be involved in any investigation.
- 16.10. The victim may ask US not to tell anyone about the sexual violence or sexual harassment. There are no easy or definitive answers when a victim makes this request. If the victim does not give consent to share information, **staff may still lawfully share it**, if it can be justified to be in the public interest, for example, to protect students from harm and to promote the welfare of students.
- 16.11. The designated safeguarding lead (or a deputy) should consider the following:
- 16.12. Parents or carers could be informed if a student is a risk to themselves.
- 16.13. The basic safeguarding principle is: if a student is at risk of harm, is in immediate danger or has been harmed a referral should be made to adult social care; and rape, assault by penetration and sexual assaults are crimes. The starting point is that reports should be passed to the police.

16.14. Ultimately, the designated safeguarding lead (or a deputy) will have to balance the victim's wishes against their duty to protect the victim and others.

16.15. If the designated safeguarding lead (or a deputy) do decide to go ahead and make a referral to adult social care and/or a report to the police against the victim's wishes, this should be handled extremely carefully, the reasons should be explained to the victim and appropriate specialist support offered.

17. Risk Assessment

17.1. An immediate risk and needs assessment must be produced. Where there has been a report of sexual harassment, the need for a risk assessment should be considered on a case-by-case basis. The risk and needs assessment should consider:

- the victim.
- the alleged perpetrator; and
- the other students (and, if appropriate, staff) at US. Risk assessments should be recorded on Intuition and should be kept under review. At all times, the college should be actively considering the risks posed to all their students and putting adequate measures in place to protect them and keep them safe. Toolkits that will support the risk assessment process include Brook: traffic light tool.

18. Action following a report of sexual violence and/or sexual harassment

18.1. US is committed to ensuring that all staff who are likely to be first point of contact in the disclosure or reporting of incidents of harassment and sexual or physical misconduct are trained to respond appropriately. An annual training plan developed by the Safeguarding team is undertaken by all staff. The training includes updates to Keeping Children Safe in Education, Action Counters Terrorism, Staff Safeguarding Professional Standards & E-Safety. Designated Safeguarding Leads and Deputies receive additional annual training and updates.

18.2. Staff should carefully consider any report of sexual violence and/or sexual harassment. The Designated Safeguarding Lead (or Deputy) is the most appropriate person to decide on the US's initial response and so advice should be sought from them. Important considerations will include:

- the wishes of the victim in terms of how they want to proceed. This is especially important in the context of sexual violence and sexual harassment. Victims should be given as much control as is reasonably possible over decisions regarding how any investigation will be progressed and any support that they will be offered.
- the nature of the alleged incident(s), including might a crime have been committed and consideration of harmful sexual behaviour.
- the ages of the students involved.
- the developmental stages of the students involved.

- any power imbalance between the students (e.g. is the alleged perpetrator significantly older).
- if the alleged incident is a one off or a sustained pattern of abuse.
- are there ongoing risks; and
- other related issues and wider context.

18.3. Where incidents and/or behaviours are associated with factors outside the US's and/or occur between people outside the college, the designated safeguarding lead (or deputy) should be considering **contextual safeguarding**. This simply means assessments of students in such cases should consider whether wider environmental factors are present in a student's life that are a threat to their safety and/or welfare. Adult social care assessments should consider such factors and so it is important that US provide as much information as possible as part of the referral process.

18.4. The starting point regarding any report should always be that sexual violence and sexual harassment are not acceptable and will not be tolerated. Especially important is not to pass off any sexual violence or sexual harassment as 'banter', 'part of growing up' or 'having a laugh'.

18.5. The alleged perpetrator should be removed from any classes they share with the victim. US should also consider how best to keep the victim and alleged perpetrator a reasonable distance apart on premises and on transport to and from US where appropriate. These actions are in the best interests of both parties and should not be perceived to be a judgment on the guilt of the alleged perpetrator.

19. Criminal Offences

19.1. In the case of a one-off incidents, US may take the view that the students concerned are not in need of early help or statutory intervention and that it would be appropriate to handle the incident internally, perhaps through utilising their behaviour and bullying policies and by providing pastoral support.

19.2. In many cases harassment and sexual and physical misconduct can also constitute criminal offences. Because of the potential seriousness of the incident US advises students to seek help immediately, whether the student is the victim, a witness, or even the perpetrator of an act that they may come to regret.

19.3. The Support Services can offer advice and information to assist a student in their decision to report an incident to the police. Any student will be supported in any decision they make.

19.4. The Support Service will also provide advice and support to those who are concerned that they may be guilty of an offence or have been formally accused of one.

19.5. If a student has been, or believes they have been, victim of a crime perpetrated by another student it is particularly important for US to be informed so that appropriate safeguarding measures and risk assessments can be made.

19.6. Other forms of action could be making a referral for support agencies and reporting to the police.

- Where a report of rape, assault by penetration or sexual assault is made, the starting point is this should be passed on to the police.
- Reporting to the police will generally be in parallel. It is important that the designated safeguarding lead (and their deputies) are clear as to the local process for referrals and follows the appropriate referral process.
- Where a report has been made to the police, staff should consult the police and agree what information can be disclosed to staff and others, particularly the alleged perpetrator. They should also discuss the best way to protect the victim and their anonymity.
- Whatever the response, it should be under-pinned by the principle that sexual violence and sexual harassment is never acceptable and will not be tolerated.
- All concerns, discussions, decisions and reasons for decisions should be recorded on Intuition.

20. Considering bail conditions

- 20.1. From April 2017, the use of police bail has been dramatically reduced and will only be used when deemed necessary and proportionate in exceptional circumstances. Consideration will be given to less invasive options to safeguard victims and witnesses and the administration of justice. Therefore, it is less likely that a student attending US will be on police bail with conditions attached if there are alternative measures to mitigate any risk.
- 20.2. In the absence of bail conditions, when there is a criminal investigation, early engagement and joined up working between welfare staff and the police will be critical to support the victim, alleged perpetrator and other student involved (especially potentially witnesses). Where required, advice from the police should be sought to help staff manage their safeguarding responsibilities.
- 20.3. The term 'Released Under Investigation' or 'RUI' will replace those previously on bail for offences in circumstances that do not warrant the application of bail to either re-attend on a particular date or to include conditions preventing activity or in some cases ensuring compliance with an administrative process.
- 20.4. Where bail is deemed proportionate and necessary, as above, US should work with the police to manage any implications and safeguard their students. An important consideration will be to ensure that the victim can continue in their normal routine, including continuing to receive a suitable education.

21. Managing any delays in the criminal process

- 21.1. There may be delays in any case that is being progressed through the criminal justice system. US should not wait for the outcome (or even the start) of a police investigation before protecting the victim, alleged perpetrator and other students. The risk assessment will help inform any decision.
- 21.2. Whilst taking any disciplinary measures against the alleged perpetrator, it will be important for the designated safeguarding lead (or a deputy) to work closely with

the police (and other agencies as required), to ensure any actions US takes do not jeopardise the police investigation.

- 21.3. In the interest of not causing impediment to the criminal proceedings, US will not commence an internal investigation or will suspend an ongoing investigation. In all instances US will undertake necessary precautionary action.
- 21.4. If US staff have questions about the investigation, they should ask the police via student welfare. The police will help and support the college as much as they can (within the constraints of any legal restrictions).

22. The end of the criminal process

- 22.1. If a student is convicted or receives a caution for a sexual offence, US should update its risk assessment, ensure relevant protections are in place for all the students and, if it has not already, refer to case under the US Student Disciplinary Policy. If the perpetrator remains at US, we should be very clear as to their expectations regarding the perpetrator now they have been convicted or cautioned. This could include expectations regarding their behaviour and any restrictions US thinks are reasonable and proportionate regarding the perpetrator's timetable.
- 22.2. Any conviction (even with legal anonymity reporting restrictions) is potentially going to generate interest among other students at US. It will be important that US ensures that the victim and alleged perpetrator remain protected, especially from any bullying or harassment (including online).
- 22.3. 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 US from acting under the US Disciplinary Policy and does not mean the Reporting Party made a vexatious or malicious report.
- 22.4. In all cases, US 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 US's Sexual Misconduct and Harassment Policy has occurred. The internal process cannot therefore be regarded as a substitute for a Police investigation or criminal prosecution.
- 22.5. Where a student has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of the US's Sexual Misconduct and Harassment Policy, the conviction/caution will be taken as conclusive evidence that the behaviour took place, and no further investigation shall be required by US. The case will be referred to the Chair of the Disciplinary Committee as an allegation of a Level 3 offence under the US Student Disciplinary Procedure.

23. Support

- 23.1. US is committed to providing support for those members of its community affected by these issues. US will provide information on support resources available and offer interim measures as appropriate to the Reporting Party,

Responding Party, and witnesses involved in alleged incidents of Sexual Misconduct and Violence.

- 23.2. Support resources are available to any member of US who discloses an incident regardless of their choice to make a report to US or Police. Support remains available irrespective of the outcome of an investigation.
- 23.3. The Reporting Party and Responding Party will each have a member of Welfare staff assigned to them to offer welfare and pastoral support. This support will be separate; one member of staff will not provide support to both parties. Staff in these roles are trained specifically to support either party during and after an investigation.
- 23.4. The Reporting Party and Responding Party may be signposted to the Student Assistance Programme to access free, impartial and confidential advice.

24. Extenuating Circumstances Support

- 24.1. If a student has been affected by crime or a distressing situation relating to harassment and sexual or physical misconduct and the Support Service has been involved in supporting the student involved, the Student Support Service is able to provide a letter on confidential terms in support of the student's request.

25. Monitoring

- 25.1. US will maintain a central record of incidents to effectively engage in prevention and response initiatives. A record of anonymised Disclosures and Reports of Sexual Misconduct and Violence incidents involving students will be kept for trend monitoring purposes. The Group Head of Welfare and Safeguarding will ensure the Apprenticeship and Higher Education Executive Committee and HE Academic Quality Board are regularly provided with anonymised data concerning the cases that are dealt with under this procedure.

Appendix I: Related Policies

- Fitness for Study Policy (US)
- Safeguarding Children and Adults at Risk Policy (EEG)
- Staff Code of Conduct and Behaviour Policy (EEG)
- Student Disciplinary Policy (US)
- Student Code of Conduct (US)
- Student Charter (US)
- Staff Code of Conduct (WSC)
- Prevent (British Values Challenging Radicalisation Extremism and Terrorism) 2024-25 (EEG)
- Arrangements for managing allegations of abuse against people who work with children or those in a position of trust (EEG)
- Young Adult Carers Policy (EEG)
- Response to Self-Injury Procedure (EEG)
- External Speakers Policy (EEG)
- Prevention of Modern Slavery (EEG)
- Online Safety and Social Media Policy (EEG)
 - Online safety Appendix A
 - Online safety Appendix B
- Body Camera Policy (EEG)
- Equality and Diversity Policy (EEG)