



# **Sexual Misconduct Policy and Procedure**

**2023 - 2024**

This document is available in hard copy and on the University intranet and internet sites. Please contact the Information Centre's (in each campus library) or the Union of Kingston Students' Advice Centre if you have any difficulty in obtaining a copy that you can read or find any aspect of these regulations difficult to understand.

## Kingston University Policy on Sexual Misconduct

1. Kingston University is committed to providing a safe environment for all staff, students, visitors, and other members of our community. This means providing an environment that keeps individuals safe from all types of harassment including behaviours that constitute sexual misconduct.
2. We are committed to building an inclusive and supportive environment with a culture of acceptance without exception. Every member of our community has the right to be treated with dignity and respect, at all times. We commit to fostering an environment which does not tolerate any form of sexual misconduct within our community.
3. We ensure that any member of our community who has either witnessed or been a victim of sexual misconduct knows where they can go [to report](#) this to us. We ensure that individuals who report sexual misconduct are supported once they have done so and feel that we have taken the matter seriously.
4. We have in place routes for anonymous reporting so that we can understand if sexual misconduct is taking place in our community even if victims don't wish to reveal their identity or make a formal report. We use this data to inform our strategy and to evaluate our progress.
5. We recognise that sexual misconduct can be experienced by any individual and at any time.
6. We recognise that universities by their nature have potential for power imbalances, for example between senior and junior members of staff and between staff and students. We have a [Personal Relationships Policy](#) and provide development for staff to ensure that they understand this.
7. We do not use non-disclosure-agreements (NDAs) or confidentiality clauses when investigating and settling cases of sexual misconduct or sexual harassment.

### **Who does this policy apply to?**

8. This document sets out the University's procedure for handling reports of sexual misconduct. The procedure covers all reports made by Kingston University students, or reports made by members of staff or third parties about Kingston University students.
9. If you are a member of staff who has witnessed or experienced sexual misconduct, or another type of bullying or harassment, by another member of staff you should follow the [Staff Bullying, Harassment and Victimisation Policy](#).
10. If you are a Kingston University student who has witnessed or experienced any other type of bullying or harassment (i.e., not of a sexual nature), please also refer directly to the [Student Complaints Procedure](#) or the [Student Conduct and Behaviour Procedure](#).

11. Please note that, whilst we work extremely closely with our Union of Kingston Students and with our collaborative partners, they have their own procedures for dealing with reports of sexual misconduct which should be followed in the first instance.

### **What is Sexual Misconduct?**

12. Kingston University defines sexual misconduct as any unwanted conduct of a sexual nature. Examples of sexual misconduct include but are not limited to:
  - flirting, gesturing, or making sexual remarks about someone's body, clothing, or appearance;
  - asking questions about someone's sex life;
  - telling sexually offensive jokes;
  - displaying or sharing pornographic or sexual images, or other sexual content
  - touching someone against their will, for example hugging them;
  - sexual assault.
13. Sexual harassment concerns sexual misconduct that is linked to a 'protected characteristic' as defined in the Equality Act 2010, and which has violated someone's dignity, whether intended or not, and/or has created an intimidating, hostile, degrading, humiliating or offensive environment for them, whether it was intended or not. For example, making sexual comments or jokes about someone's sexual orientation or gender reassignment.

### **Making a disclosure**

14. The University has a range of [Report and Support routes](#) available to you if you have witnessed or experienced any behaviour of a sexual nature that has made you feel uncomfortable. If you need any help or advice, please refer to the [information on these pages](#). In an emergency, where there is an immediate risk to life or a threat of violence, call 999.
15. You can make a disclosure to the University via one of our report and support routes or by telling a member of University staff. When making a disclosure you do not need to provide the full details of your experience or of what you have witnessed. If you have provided your details (i.e., not made an anonymous report), a member of staff will reach out to you within two working days to ensure that you have the appropriate immediate support in place and to discuss your report further. You will not be pushed to reveal more than you want to, nor will you be pressured to make a formal complaint.
16. Whilst we do have recommended timescales for reporting sexual misconduct (see *timescales section* below), we recognise that sometimes it will take longer for victims to feel that they can come forward and report cases to us. If we determine that a disclosure is too historical for us to be able to appropriately investigate it, we still encourage you to disclose to us so that we can provide or signpost you to appropriate support.
17. If you decide to disclose to us anonymously via our [online Report and Support tool](#), we will usually not be able to take any direct action as a

result of what you have reported. However, we will review anonymised data regularly to identify any patterns of behaviour and we may use anonymous data in support of formal investigations, where this is appropriate.

### **What will happen after making a disclosure?**

18. When we reach out to you, we will invite you to attend a meeting to discuss your report in more detail and to let you know what support is available to you, both within the University and externally. We will also discuss what measures we can put in place to keep you safe (see *precautionary measures section*), and to consider your next options in more detail.
19. We will give you options of how you wish to meet, for example, you may prefer to meet in person or via Microsoft Teams. During this meeting, the member(s) of staff will listen to you and will provide you with further support information appropriate to the nature of your report. They will also provide you with relevant information about a range of options that you might want to consider which could include reporting to the police, submitting a formal complaint to the University, or deciding to do take no further action for the time-being. You will not be pushed to reveal more than you want to, nor will you be pressured to report to the police or to make a formal complaint.
20. If you decide to submit a formal complaint, the University will follow the broad procedure set out in either the Student Complaint Procedure (for a report submitted by a student about sexual misconduct where a member of staff is the alleged perpetrator), or the procedure set out in the Student Conduct and Behaviour Procedure or Fitness to Practise Procedure (for a report of sexual misconduct where a student is the alleged perpetrator). However, the following additional principles will apply. If you decide to submit a formal complaint, we will provide you with nuanced advice about the appropriate next steps within the relevant procedure.

### **Confidentiality**

21. We recognise how important it is for individuals to feel that their reports will remain private, and that information will only be shared on a need-to-know basis. We will respect that and keep your information confidential. However, you should note that 'confidential' may not mean that the information that you report to us will be kept completely secret. For example, it may be necessary for us to share all, or some, of the information that you report, with other people within our University, or in some exceptional circumstances, with external organisations such as the police. We will always consider which elements of the information that you have shared with us it is absolutely necessary for us to disclose and this will be done using the following principles:
  - Sharing information is necessary to allow a case to be appropriately investigated and considered.
  - Sharing the information will allow us to safeguard you and/or other members of the University community.
  - Sharing the information will allow us to provide support to those who have reported sexual misconduct, and/or to those who have been alleged to have committed sexual misconduct.

- Sharing the information will allow us to meet our legal duties.
- Wherever possible, we will advise you of who information has/will be shared with and the reasons for this.

### **Providing more information to us in support of a case**

22. We recognise how difficult it may be for you to share details of what has happened. We will work with you to identify the most appropriate route for you to share this information with us so that we can understand as much as we need to about the incident in order for us to investigate this appropriately.

### **Outcomes, penalties and how these will be shared**

23. Where the Student Complaints Procedure has been followed (for a report submitted by a student about sexual misconduct where a member of staff is the alleged perpetrator), at the end of the investigation the investigator will confirm whether, on the balance of probabilities and having considered all the evidence, it is their finding that sexual misconduct has or has not taken place and the broad reasons for this. If sexual misconduct has been found, the investigator will make some recommendations about any appropriate remedial or disciplinary processes and also about any ongoing precautionary measures that may need to be confirmed. Where a recommendation is made for referral to the Staff Disciplinary Process the HR Advice Team will be contacted.
24. Where the Student Conduct and Behaviour Procedure or the Fitness to Practice Procedure has been followed (for a report of sexual misconduct where the alleged perpetrator is a student), at the end of the investigation the investigator or panel will confirm whether, on the balance of probabilities and having considered all the evidence, it is their finding that sexual misconduct has or has not taken place and the broad reasons for this. If sexual misconduct has been found, the investigator or panel will agree what penalties will be applied. The investigator or panel will agree to the appropriate penalties based on a full consideration of the details of the case and considering any mitigating factors or precedents set. The Student Conduct and Behaviour Procedure and Fitness to Practice Procedures set out indicative penalties which will be considered.
25. The University will provide as much information as possible to the reporting party at all stages of the investigation. This will include letting you know about any relevant precautionary measures that have been put in place and, if you have submitted a formal complaint, the approximate date that we will conclude our investigation. We will let you know the broad findings of our investigation, the outcome (i.e., whether or not the investigation has concluded that sexual misconduct has or has not taken place) and the broad reasons why this has been found. We will also let you know about any ongoing and relevant precautionary measures. However, given that some elements of our investigation may include information that is very personal to other individuals named in your complaint, the University may not be able to disclose full details of all aspects of the investigation, or be able to provide full details of any disciplinary penalties that have been issued, or any further disciplinary processes that may be taking place once

your complaint has concluded. The reporting party will be informed of the outcome of the investigation.

26. The University is committed to working in line with the UUK guidelines for 'Changing the Culture: Sharing Personal Data in Harassment cases' published in August 2022.

### **Timescales and scope**

27. Under our standard procedures, allegations of misconduct should normally be reported within 15 days of the incident. However, we acknowledge that it sometimes takes victims of sexual misconduct more time to recognise what has happened to them and to come forward. Whilst we will accept reports relating to sexual misconduct outside of our normal time-frame, we will need to consider the circumstances in each case to determine whether the principles of natural justice can be met. For example, the time passed since the incident may be too long to be able to reasonably expect robust evidence to be collected either in support, or in defense, of a case, or for a robust investigation to be undertaken. If it is decided that the case cannot proceed, the University will provide a rationale for this to the reporting party. The Academic Registrar decision is final in this regard.
28. The University will consider allegations of sexual misconduct against any student who is registered on Kingston University credit, up until the last date of the student's registration. The University reserves the right to delay the provision of a student's award and/or their attendance graduation where there is a case pending. The Academic Registrar decision is final in this regard.
29. Allegations of sexual misconduct against an individual who was, but is no longer, a contracted member of staff can be submitted under the Student Complaints procedure. However, should any subsequent investigation conclude that the complaint is justified, it will not be possible to provide any further disciplinary outcome against the individual since they are no longer a contracted member of staff. The outcome of a complaint such as this would seek to provide a remedy which acknowledged the distress of the reporting party and identified any institutional measures that could be put in place to prevent a future incident.

### **Precautionary Measures**

30. If following a disclosure, we believe that there is a risk to the person who has disclosed or to other members of the community, a risk assessment will be undertaken to decide whether there are any precautionary measures that need to be put in place to keep our community safe. Precautionary measures are not a penalty, but an important step taken by the University to determine whether there is a potential risk to members of the University community or its premises. Precautionary measures may include suspending a staff member from teaching completely or from teaching or supervising certain activities or students, or from contacting specific individuals. We may also consider restricting a student's access to all or some of our buildings, suspending them from attending or participating in certain activities or requiring them to cease contact with certain individuals.

Any precautionary action taken by the University will be reasonable and proportionate and in all cases care will be taken to minimise any student's ability to engage with their learning and assessment as far as is deemed possible, or a staff member's right to natural justice and dignity at work.

31. Further information about Precautionary Measures can be found in the relevant procedure.

### **Conduct of procedures**

32. Members of staff operating these procedures will treat you with respect and courtesy and we expect you to treat us in the same way. We reserve the right to terminate the process if your conduct is inappropriate and/or if we determine that your complaint has been fabricated or submitted maliciously.

This Policy and Procedure was last reviewed by the University in July 2023 and has been produced with reference to:

- *Office for Students – Statement of Expectations*
- *ACAS – Sexual harassment guidance*
- *Universities UK – Changing the culture: Sharing personal data in harassment cases*
- *OIA – Good Practice Framework*
- *Pinsent Masons and Universities UK – Guidance for HE Institutions on How to Handle Alleged Student Misconduct Which May Also Constitute A Criminal Offence*

## **Appendix A: Internal and External Support**

### **Internal support via Kingston University**

*Counselling and Wellbeing Team:* [Counselling and Wellbeing \(sharepoint.com\)](#). You can get in touch with the team via [health@kingston.ac.uk](mailto:health@kingston.ac.uk) if you also want to find out about rape and sexual abuse specialist counselling services externally.

*Reporting to the university:* [Preventing and addressing bullying and harassment - Equality, diversity and inclusion - Kingston University London](#)

### **External support – specialist helplines:**

*24/7 Rape and Sexual Abuse:* 0808 500 2222 [24/7 Rape and Sexual Abuse Support Line \(247sexualabusesupport.org.uk\)](#)

*Stalking:* 0808 802 0300. Open **09:30 - 20:00**, Monday and Wednesday **09:30 - 16:00**, Tuesday, Thursday, Friday [Ways to contact us | Suzy Lamplugh Trust](#)

*24-hour National Domestic Abuse:* 0808 2000 247 [Home | Refuge National Domestic Abuse Helpline \(nationaldahelpline.org.uk\)](#)

*24/7 Victim Support:* 08 08 16 89 111

### **External support – specialist organisations:**

*Refuge – domestic abuse support for women and children:* [What is abuse | Refuge National Domestic Abuse Helpline \(nationaldahelpline.org.uk\)](#)

*RASASC – Rape and Sexual Abuse Support Centre:* [Rape Crisis South London - Rape & Sexual Abuse Support Centre Rape Crisis South London \(rasasc.org.uk\)](#)

*The Havens – anyone who has been raped or sexually assaulted in the last 12 months (includes forensic medical examination):* [How we can help | The Havens](#)

### **Reporting to the police:**

If you decide you would like to report to the police, you can do so by calling 101 or going to the nearest police station.

**In an emergency or if you are in immediate danger, please call 999 or go to your nearest A&E**