



Student Accommodation – Sexual Misconduct & Harassment Procedure.



UNIVERSITY OF
WOLVERHAMPTON

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Procedure

1. Overview

The University of Wolverhampton is committed to providing a positive and supportive work and study experience for all, everyone should feel safe, with us providing an environment that is free from discrimination and affirms the rights to everyone to be treated with dignity and respect.

The university recognise that incidents of sexual misconduct and harassment does occur within the university community. It is acknowledged that the increase in the number of disclosures from our community and this aligns with the trend reflected across the Higher Education Sector.

This procedure should be read in conjunction with the universities overarching policy towards Sexual Misconduct and Harassment. This procedure relates to students who reside within the university student accommodation. The link below refers to the Universities overarching policy.

<https://www.wlv.ac.uk/about-us/corporate-information/wlv-policies/sexual-misconduct-and-harassment-framework/>

2. Scope

The Sexual Misconduct and Harassment Procedure applies to all employees and students who reside or work within or have a reason to work in the environment on an ad hoc basis the student accommodation of the university. The responsibilities and organisational arrangements for this policy lie with a variety of personnel within the Estates and Facilities Directorate. Any investigation into any allegation would fall within the Universities established policies and procedures for handling complaints.

- Students who reside within the accommodation who fail to adhere to the policy, any investigations will be dealt with through either the Dignity at Work and Study Policy, Student Code of Conduct and / or the Disciplinary procedure.

3. Definitions

3.1 Sexual Misconduct and Harassment

Sexual misconduct and harassment can involve a range of inappropriate and unwanted behaviours and acts of a sexual nature. It covers the following but this list is not exhaustive;

- all forms of sexual violence, including sex without consent,
- sexual abuse (including online and image-based abusive content).
- non-consensual sexual touching,
- sexual harassment (unwanted behaviour of a sexual nature which violates your dignity; makes you feel intimidated, degraded or humiliated or creates a hostile or offensive environment).
- stalking,
- up skirting,

- abusive or degrading remarks of a sexual nature; and
- a vast range of other behaviours.

The definition of inappropriate sexual behaviour and violence may also include one or more of the following common signs:

- When a person is no longer interested in sexual activity after initially consenting to the act, but the other person continues to engage in sexual activity (e.g. touching, kissing, intercourse).
- When a person makes inappropriate sexual remarks in private or public places.
- When a person makes unwanted sexual advances (e.g., grabs, or attempts to touch).
- Unwanted kisses or hugs considered more than would be appropriate to express affection.
- Masturbation and or exposure in public.
- Intimidation and/or the distribution of personal content and/or footage online.

The following definitions also apply:

3.2 Consent

Consent is defined as the agreement to participate in a sexual act where the individual has both the freedom and capacity to make that decision. It is important to recognise that consent cannot be assumed based on a previous sexual experience or previously given consent, and consent may be withdrawn at any time.

3.3 Freedom to consent.

For consent to be present, the individual must freely engage in a sexual act. Consent is not present when submission by an unwilling participant result from the exploitation of power, or coercion or force, regardless of whether there is verbal or physical resistance.

3.4 Capacity to consent

Free consent cannot be given if the individual does not have the capacity to give consent. Incapacitation may occur when an individual is asleep, unconscious, semi-conscious, or in a state of intermittent consciousness, or any other state of unawareness that a sexual act may be occurring. Incapacitation may also occur on account of a mental or development disability, or as the result of alcohol or drug use.

3.5 Coercion or Force

Includes any physical or emotional harm or threat of physical or emotional harm which would reasonably place an individual in fear of immediate or future harm, with the result that the individual is compelled to engage in a sexual act.

3.6 Alcohol and/or Drug Use

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,
- 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.

Intoxication is never a defence for committing an act of Sexual Violence and/or Misconduct, or for failing to obtain consent. If there is any doubt as to the level or extent of one's own or the other individual's incapacitation, the safest approach is to not engage in a sexual act.

3.7 Disclosure

Disclosure means that an individual tells a member of the University community (such as student or staff member), that they have experienced Sexual Misconduct and/or Harassment (different from a formal complaint).

3.8 Report

The sharing of information with a staff member of the University regarding an incident of Sexual Misconduct and Harassment experienced by that individual for the purposes of initiating the investigation process by the University (different from Disclosure).

3.9 Reporting Party

The person(s) who has been the subject of the alleged incident of Sexual Misconduct and Harassment.

3.10 Responding Party

The person(s) whose behaviour it is alleged, amounted to an incident of Sexual Misconduct and Harassment.

4. Student Disclosure

In the event of either a disclosure / incident occurring on site or relating to a student residing in the University accommodation, this could be received from various sources for example, police, students, parents, or staff.

It would be anticipated that many of the reports would be initially received and / or dealt with by the University Security team. They will endeavour at the point of receiving information regarding an incident to respond accordingly and / or liaise with the students impacted. In the event, that emergency services need to be called, the security team will undertake this notification and remain with the individual until the emergency services are in attendance.

Upon any incident occurring within the student accommodation, the information will be recorded by Security on the IT software system. Stating all the pertinent information and

indicating whether any bodycam footage was used at the time. If this incident is a safeguarding issue, the Security Team Leader or nominated security personnel will email the university safeguarding@wlv.ac.uk with any concerns.

Upon the next working day, the Hub Manager within the accommodation will check the incidents that have occurred during the out of hours period and will then undertake follow up investigations and carry out pastoral welfare checks as required, signpost to the relevant university services and / or refer to specialist external organisations.

4.1 Reporting

We will actively respond to all reports of Sexual Misconduct and/or Harassment. The university recognises that some experiences may constitute a criminal offence, and we will ensure that, in all cases, reports are carefully and thoughtfully addressed through a process that is transparent and clearly communicated to the individuals involved. The complaint will be investigated promptly and will be objective and independent.

To distinguish the university process from a criminal law process, the university refers to sexual violence, sexual harassment, and sexual abuse as sexual misconduct throughout the disciplinary process. The use of this term is not intended to trivialise what has happened; sexual misconduct is a term which captures all types of sexual violence, from rape and sexual assault, to stalking, harassment and abuse.

We will ensure that both the reporting party (person(s) who has made a complaint regarding an experience of sexual misconduct), and the responding party (person(s) named in a formal complaint who is alleged to have committed an act of sexual misconduct), are listened to, and responded to in a safe, supportive, trusting environment. All parties will be offered if appropriate and where available to relocate another room, block or campus and signposted to all university services that are available for them to access.

The university remains committed to prioritise the safety and wellbeing of the parties involved, whilst ensuring the dignity of all those involved in any investigation or disciplinary proceedings. We will respect the right of the individual disclosing an experience to choose how to take forward a disclosure, including the decision not to make a formal complaint.

5. Actions to be taken.

5.1 Upon a disclose by the Reporting Party

It is anticipated that the Security team (the group most likely to have assisted with this situation out of hours) will be the predominant recipient of all initial disclosures at the point of dealing with an incident or a student asking for assistance. However, this may also be disclosed to a member of staff within the Facilities team, for example the staff working within the local sites managing or working within the accommodation.

The Security team will assist with any pastoral, welfare or support to the student and will contact either the emergency services if required / requested and where appropriate email the University safeguarding@wlv.ac.uk. The Security team will assist where

possible any emergency room moves or relocation to another campus if required dependant upon the incident. They will also record the details on the Security IT software platform where upon the next working day the Accommodation Hub Manager will retrieve this report and then undertake any further meetings with the student/s.

University staff will respect the reporting party's rights to decline any support whilst ensuring that they are aware how to obtain this if they chose to do so. If the reporting party chooses not to engage with the Facilities staff, information regarding the support networks within the University will be disseminated to the student in writing.

All staff need to be aware that it is the reporting party's decision whether to engage with university staff, police or external Services and care must be taken not to harass or to assume that University Staff knows what is best for the Student's welfare.

In the event of the incident requiring escalation either the Security team or accommodation staff will escalate the incident to the Building Manager and Facilities Manager, so they are aware of the issue that has occurred.

Anyone who discloses they have been targeted by someone engaging or attempting to engage in a sexual act without the students consent or sexually touching the student without their consent, will be signposted to the local Sexual Assault Referral Centre (SARC) so that they may access services provided.

This will also allow the student to make an anonymous report and have evidence stored while they choose if they want to make a report to the Police. The student will also be signposted to information from the SARC on how to preserve evidence.

Staff can make a referral to the SARC on behalf of the Reporting Party with their consent for each campus location:

Wolverhampton:

<https://win.wolverhampton.gov.uk/kb5/wolverhampton/directory/service.page?id=AlzfQEY9wo>

Walsall: https://www.wald.co.uk/kb5/walsall/asch/service.page?id=J_oeaLDeFUw

Telford: <https://www.cqc.org.uk/location/1-877389019/contact>

5.2 Upon a disclosure – Responding Party

Without prejudice, the university must offer equal support to the reporting party and responding party whilst the investigations are being undertaken. In the event of the police being involved in the case, permission must be sought to liaise with the student to ensure that we do not hinder or adversely impacts any criminal investigation.

If the incident is alleged to have occurred in an individual's bedroom, the police will routinely require access to the room to undertake their own investigations. Security will assist wherever necessary with regards to access and security of the area.

If the responding party has been interviewed by the police, the accommodation teams will arrange to speak to the student to sign post them regarding any relevant support. The

student will be interviewed where possible by two members of staff (one will be from the Mental Health and Wellbeing team wherever possible)

The responding party will be informed that the purpose of the meeting is to find a resolution regarding their living and possible student arrangements whilst both parties remain at the University of Wolverhampton and if they reside on the same Campus.

The responding party will be informed that until any criminal findings have been concluded; (if applicable) the individual is considered innocent until proven guilty; but it should also be acknowledged that this does not infer that the responding party's accounts are treated as inaccurate or false either.

The following actions should be undertaken at the interview with both the reporting and responding party:

- The accommodation staff will advocate a room or campus move if the students live in close proximity to each other, or if either party do not feel safe / comfortable in their allocated room.
- The student will be reminded of the need to report any behaviour toward them from other students such as bullying or harassment, because of the incident, giving them reassurance that these reports will be taken seriously and managed appropriately. These reports should be made to either the accommodation or security staff.
- If the student chooses not to engage with the process, they should be written to with a request for them to attend an appointment and advocate any University support that may be beneficial for the health and wellbeing.
- The student will be informed that details of the alleged incident have been passed to the Conduct and Appeals Unit for their consideration under their Student Conduct and Disciplinary procedures.
- This student will be advised that they can contact the Students' Union for further advice and support.

6. Confidentiality

A student's disclosure will be considered as personal and sensitive in nature and as such should not be shared with in the University departments that are not mentioned in the policy document or outside parties without the expressed permission of the student. Any information sharing should be on a need-to-know basis and staff should always judge any choice to discuss the matter /incident against this principle: "is this person already aware of this due to their role, do they need to know any more?"

Without a student's consent, there may be a set of factors that would deem that there is a legal obligation to breach confidentiality or where exceptional issues of personal safety arise. This should be discussed with your line manager in the first instance, who can decide or seek advice from the universities safeguarding team. The information collected will be processed and managed within the accommodation team; the information will be used for the administration of a student's support and any other legitimate university purpose. (For example, support for extenuating circumstances). Hard copies of statements provided will be

stored in a secure, locked, and restricted access cupboard within the Facilities Hub until such a time it is required. In doing so, the University will always observe the data protection principles embodied in the Data Protection Act 2018

If the police request a copy of the notes taken within the interview, liaison should take place with the Universities Date Protection Office based within the OVC and advice should be sought. Routinely a WA170 form will be sought from the police, this will request the information and outline for what purpose, which in the case of sexual assault and or rape, will be with the view to investigate an alleged serious crime. If the WA170 lists the alleged perpetrator as the data subject; please note, we are not permitted to discuss this request with the alleged perpetrator; and advice should be sought from the police as to whether we can discuss the intricacies of support and University arrangements with them prior to them seeing them.

7. Support for Staff

The University of Wolverhampton accepts its responsibility to staff welfare and advocates an approach that allows “de-brief” and “de-escalation” following such disclosures. The aim of such an approach is to ensure a “well” workforce avoiding unmanageable levels of sickness, absence or staff being emotionally distressed. This will be undertaken under advice from either Counselling Services or the Mental Health and Wellbeing team, assistance can also be sought from the Employee Assistance Scheme.

<https://www.wlv.ac.uk/staff/services/humanresources/staff-wellbeing-hub/employee-assistance-programme/>

VERSION	4	AUTHOR/OWNER	Bec Woolley
Approved Date	18 th September 2023	Approved By	Estates and Facilities SMT
Review Date	September 2026		