

SEXUAL MISCONDUCT AND VIOLENCE POLICY AND PROCEDURE: STUDENTS AND STAFF			
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- 1.1 The purpose of this policy is to ensure that all students and staff at Wrexham University (“the University”) are treated and treat others with dignity and respect, free from sexual misconduct and violence. The University aims to provide a safe and supportive environment for students to study and interact with other students, staff and visitors, and where staff can work free from any sexual misconduct and violence. Sexual misconduct and violence refers to a broad spectrum of behaviours that cannot be divorced from other types of gender based violence including, but not limited to, intimate partner violence or domestic abuse, coercive and/or controlling behaviour, and stalking.
- 1.2 The University acknowledges that sexual misconduct and violence can be experienced by any individual, regardless of their identity. The University is committed to promoting a culture in which any incidents of sexual misconduct and violence will not be tolerated, and will be thoroughly addressed to ensure the preservation of a safe study and work environment.
- 1.3 The University takes allegations of sexual misconduct and violence seriously and will address them promptly, and treat them confidentially where possible.
- 1.4 Unlike allegations of harassment and bullying, allegations of sexual misconduct and violence should not be resolved informally and should be reported to the Director of Strategic Planning and Student Administration or to the Executive Director of Human Resources in the first instance.
- 1.5 The University aims to balance the rights of the person making the allegation and those of any person against whom an allegation is made; all parties must be treated with dignity and respect. A student or staff member should not expect to suffer any reprisals for making an allegation in good faith, and any allegations and/or evidence of recrimination should be brought immediately to the attention of the Director of Strategic Planning and Student Administration or the Executive Director of Human Resources.
- 1.6 There may be cases where somebody makes an unfounded allegation for vexatious/malicious reasons. These cases should be investigated and dealt with fairly and objectively under the disciplinary procedures

2 SCOPE of the Policy

2.1 This policy applies to all members of the University community and relates to sexual misconduct by

- **A student against a student or member of staff;**
- **A member of staff against a student or a member of staff;**
- **A student or staff member against a third party**

It also applies to sexual misconduct that may take place outside of the University premises or hours e.g. social events, trips or on social media.

This Policy also relates to all incidents of sexual misconduct and violence as well as domestic abuse and coercive or controlling behaviour, complicity, retaliation, vexatious reporting, and malicious reporting as defined in **Section 3**.

2.2 All students and staff members who have experienced Sexual Misconduct and Violence will have equality of access to both internal and external specialist support (e.g. Rape Crisis) regardless of when the experiences occurred.

2.3 The accompanying procedures to this Policy relate specifically to those experiences, which have occurred during the course of study or work at the University, in which the Responding Party is a student or member of staff of the University. The Policy is not restricted to incidents occurring on University premises, as incidents may have occurred off-site.

2.4 If an individual connected to a Reporting party makes a disclosure, then they should be advised to encourage the Reporting party to make a disclosure directly through this policy.

2.5 Sexual Misconduct and Violence includes a broad spectrum of behaviour. Examples of the types of behaviour that will constitute a violation of this Policy are set out below. Reports of such behaviour will be considered by the University under its internal complaints and where appropriate its Disciplinary Procedure. When the Responding Party is a student the Sexual Misconduct and Violence Policy and Procedure: Students will apply. When the Responding Party is a member of staff the procedure for managing disclosures or reports involving allegations of staff sexual violence and misconduct, Dignity at Work Policy for staff and, where appropriate, the University's Disciplinary Procedure will apply. The appropriate Policy and/or procedure to be followed will be determined at the Initial Review Meeting (see procedure below).

2.6 Some incidents of Sexual Misconduct and Violence may also constitute a criminal offence under English and Welsh law. Such incidents may be addressed through criminal proceedings, internal disciplinary proceedings, or, in some cases, both criminal and internal proceedings.

2.7 A list of definitions is provided below to clarify the exact scope of the Policy.

3 Definitions and Terminology

3.1 The definitions below have been separated into explanations of the types of behaviour captured under this Policy which amount to Policy breaches and clarification of the terminology used within the Policy.

Types of Behaviour

3.2 **Sexual Misconduct and Violence** is defined as any unwanted conduct of a sexual nature which occurred in person or by letter, telephone, text, email or other electronic

and/or social media and includes, but is not limited to, the following behaviour:

- 3.2.1 Engaging, or attempting to engage in a sexual act with another individual without consent;
 - 3.2.2 Sexually touching another person without their consent;
 - 3.2.3 Conduct of a sexual nature which creates (or could create) an intimidating, hostile, degrading, humiliating, or offensive environment for others including making unwanted remarks of a sexual nature (including any on-line pictures/comments through social media);
 - 3.2.4 Inappropriately showing sexual organs to another person;
 - 3.2.5 Recording and/or sharing intimate images or recordings of another person without their consent; and
 - 3.2.6 Arranging or participating in events which may reasonably be assumed to cause degradation and humiliation to those who have experienced sexual violence, for example inappropriately themed social events or initiations.
- 3.3 **Domestic abuse and coercive or controlling behaviour** is defined as any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those who are, or have been, intimate partners or family members regardless of gender or sexuality. This can include, but is not limited to, psychological, physical, sexual, financial and/or emotional abuse.
- 3.4 **Complicity** is any act that knowingly helps, promotes, or encourages any form of Sexual Misconduct and Violence by another individual.
- 3.5 **Retaliation** may constitute any words or actions, including intimidation, threats, or coercion, made in response to disclosures or reports made under the Sexual Misconduct and Violence Policy, by any individual including both the Responding Party and the Reporting Party, as well as witnesses, friends, and relatives.
- 3.6 The University recognises that there are potentially additional types of behaviour that will constitute a breach of this Policy and which will therefore need to be considered under the relevant internal Dignity at Work Policy and procedure and/or where appropriate the disciplinary procedure for staff and the Disciplinary Procedure for Students, although the frequency and likelihood of such breaches are likely to be low:
- 3.6.1 **Vexatious reporting** involves the creation of an unwarranted report/s made under the Sexual Misconduct and Violence Policy.
 - 3.6.2 **Vexatious** a refusal to accept any reasonable decisions arising from the application of the accompanying procedures to this Policy.
 - 3.6.3 **Malicious reporting** occurs when an individual shares an allegation of Sexual Misconduct and Violence that the individual knows to lack a basis in fact.
- 3.7 **Disclosure** involves an individual choosing to tell anyone who is part of the University community about their experience of Sexual Misconduct and Violence (different from Report).
- 3.8 **Report** is the sharing of information with a staff member of the University regarding an incident of Sexual Misconduct and Violence experienced by that individual for the purposes of initiating the investigation process by the University, as set out in this Policy and the accompanying procedures (different from Disclosure).
- 3.9 **Reporting Party** is the person(s) who has been the subject of the alleged incident of Sexual Misconduct and Violence or other policy breach.
- 3.10 **Responding Party** is the person(s) whose behaviour it is alleged amounted to an incident of Sexual Misconduct and Violence or other policy breach.
- 3.11 **Third Party** is someone who is not part of the University community i.e. not a staff

member or a student.

- 3.12 **Consent** is the agreement by choice where the individual has both the freedom and capacity to make that choice. Consent cannot be assumed on the basis of a previous sexual experience or previously given consent, or from the absence of complaint, and each new sexual act requires a re-confirmation of consent as the foundation of a healthy and respectful sexual relationship. Consent may be withdrawn at any time before or during a sexual act.
- 3.12.1 **Freedom to consent:** For consent to be present, the individual has to freely engage in a sexual act. Consent cannot be inferred from a lack of verbal or physical resistance. Consent is not present when submission by an unwilling participant results from coercion, force, threat, intimidation or the exploitation of power.
 - 3.12.2 **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.
 - 3.12.3 **Capacity to consent:** Free consent cannot be given if the individual does not have the capacity to give consent. An individual is incapacitated when asleep, unconscious, semiconscious, or in a state of intermittent consciousness, or any other state of unawareness that a sexual act may be occurring. Incapacitation may occur on account of a mental or developmental disability, or as the result of alcohol or drug use.
 - 3.12.4 **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 Misconduct and Violence, 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 not to engage in a sexual act.
- 3.13 **Confidentiality** will be maintained, where possible, throughout the Disclosure, Reporting and investigative processes in recognition of the sensitive nature of Sexual Misconduct and Violence matters. As such, information will usually only be shared with relevant individuals/entities (who may be internal or external to the University, e.g. internal counsellors, witnesses, external experts from specialist agencies like Rape Crisis, Sexual Assault Referral Centres or the Police) with the agreement of the Reporting Party. The University reserves the right, and may be under an obligation, to share information in exceptional circumstances where such disclosure is necessary to protect any individual or the wider University community from harm or to prevent a crime from taking place. All individuals involved in any process under this Policy must keep information that is disclosed to them as part of the process confidential. Any unauthorised disclosure of confidential information will be considered a Policy violation and will be addressed accordingly. Throughout all proceedings, the University will act in compliance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

- 4.1 Sexual Misconduct and Violence can be experienced by any individual, regardless of sex, gender, sexual orientation, relationship status, age, disability, faith, ethnicity, nationality and economic status. Women, members of the LGBT+ community, and individuals with disabilities are disproportionately affected by experiences of sexual violence. Experiences of sexual misconduct and violence may intersect with other forms of harassment and discrimination. The University has an Anti-harassment and Anti-bullying Policy (Students) and Dignity at Work Policy (Staff) which addresses other forms of harassment, bullying and discrimination.

5 Responsibilities

5.1 Leaders and Line Managers

All leaders and managers have a duty to familiarise themselves with this policy, and to make every effort to ensure that sexual misconduct does not occur, particularly in the areas of work for which they are responsible.

Sexual Misconduct can be hard for leaders and managers to recognise, particularly as it may not be obvious to them or other colleagues what is happening. The individual being subjected to inappropriate behaviours may be too frightened to report it. The inappropriate behaviours may be done in a subtle way or the individual may even think that is part of the 'culture' in the work place and just normalise what they are being subjected to. If the individual is unwilling or too frightened to act there may be other ways to address the issue and this should be discussed with Human Resources.

- 5.2 The Director of Strategic Planning and Student Administration Services is the Lead Sexual Misconduct and Violence Officer (LSMVO) and is responsible for the application of the procedures associated with this Policy.
- 5.3 The Executive Director of Human Resources is the Deputy Lead Sexual Misconduct and Violence Officer (DLSMVO) and is responsible for the application of the Procedure for managing disclosures or reports involving allegations of staff sexual violence and misconduct.
- 5.4 The day-to-day management of the Sexual Misconduct and Violence Policy and Procedure for Students will be overseen by the Quality and Regulation team.

6 Related Information

- 6.1 This Policy / Procedure should be read in conjunction with other Regulations, Policies and Procedures, including:
- Dignity at Work Policy
 - Anti- Harassment and Anti-Bullying Policy and Procedures for Students
 - Safeguarding Policy
 - Fitness to Study Policy
 - Where appropriate the Staff Disciplinary Procedure and the Student Disciplinary Procedure

SEXUAL MISCONDUCT AND VIOLENCE POLICY: PROCEDURE

1. Introduction

1.1 This procedure sets out how the University will deal with incidents of Sexual Misconduct and Violence against student or staff members of the University community. The procedure is part of the University's Sexual Misconduct and Violence Policy and should be read in conjunction with that Policy.

1.2 What to do in an emergency

On Campus

If you are on campus, the emergency services needs to be contacted via the Security team, who will guide them to the right location:

Call Security on **07764687909** or **07640687910**. Security may call the on-call member of University staff, and can contact emergency services if necessary.

Always inform Security as soon as possible if you have called 999 from the University so that they can assist.

Off Campus

Call 999 to access emergency services

1.3 What to do in a non-emergency

Where there is no longer an immediate threat to an individual's safety or after any necessary emergency response has taken place, an individual may choose to get medical support, visit a sexual assault referral centre or visit a sexual health clinic follow the incident.

An individual may also wish to make a report to the police, where they do this, they must notify the University if they also file a report under this procedure, so that an investigation by the police can take precedence see 3.2 below.

2 Scope of Procedure

2.1 This procedure applies to all members of the University community and relates to sexual misconduct by

- **A student against a student or member of staff;**
- **A member of staff against a student or a member of staff;**
- **A student or staff member against a third party**

It also applies to sexual misconduct that may take place outside of the University premises or hours e.g. social events, trips or on social media

2.2 This procedure applies to all alleged incidents of Sexual Misconduct and Violence Policy breaches between the University's students or between a staff member and a student. It does not cover incidents of non-sexual harassment as the University has separate policies in relation to those matters. If a conflict arises between this procedure and any

other policy or procedures of the University, then the Initial Review Meeting (IRM) shall determine which procedure will be used.

- 2.3 In the event that the Reporting Party is a student, member of staff or contractor of the University and the Responding Party is a student, this procedure will apply and the investigation will be managed by the Director of Strategic Planning & Student Administration.
- 2.4 In the event that the Responding Party is a member of staff or contractor of the University, the Initial Review Meeting (IRM) will make a decision on which policy and procedure will be followed.
- 2.5 If a decision at the IRM is taken that the matter is not to be dealt with under this procedure in accordance with clause 2.3, the Reporting Party can request a review of that decision in accordance with the review process set out in section 10 below.

3 Police investigations and judicial proceedings

- 3.1 This procedure is designed to support the Reporting Party to disclose incidents of Sexual Misconduct and Violence to the University, and to support the Reporting Party when they choose and assess the course of action that is most appropriate for them.
- 3.2 Where a criminal investigation or judicial proceedings are ongoing or are likely to commence in respect of a Disclosure, the University can receive a Report of Sexual Misconduct and Violence. In the interest of not causing impediment to the criminal proceedings, the University will not commence an internal investigation or will suspend an ongoing investigation. In all instances the University will undertake necessary precautionary action for example putting in measures to separate the reporting and responding parties.
- 3.3 Reports under this procedure of alleged incidents of Sexual Misconduct and Violence will be considered at an Initial Review Meeting (IRM) including situations where the Reporting Party chooses not to report the matter to the Police. An IRM may also be called after the conclusion of a criminal investigation or judicial proceedings where there are issues outstanding and pertinent to the student or staff member involved.
- 3.4 A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action in relation to a criminal matter or an acquittal at a trial does not preclude the University from continuing to investigate and if appropriate taking action under this procedure and does not mean the Reporting Party has made a vexatious or malicious report.
- 3.5 In all cases, the University will advise the Reporting Party that it does not have the legal investigatory powers of the Police, and cannot make a determination on criminal guilt. An internal investigation is focussed exclusively on whether a breach of the University's Sexual Misconduct and Violence Policy (or another Policy, if so determined at the IRM) has occurred. The internal process cannot therefore be regarded as a substitute for a Police investigation or criminal prosecution.
- 3.6 Where a student or staff member has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of the University's Sexual Misconduct and Violence Policy, the conviction/caution will be taken as conclusive evidence that the behaviour took place and no further investigation shall be required by the University.

4 Support

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

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

- 4.2 Support resources are available to any member of the University who discloses an incident regardless of their choice to make a Report to the University or Police. Support remains available irrespective of the outcome of an investigation.
- 4.3 The Reporting Party and Responding Party will each have a member of 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 will be trained specifically to support either party during and after an investigation.
- 4.4 The Reporting Party will be signposted to the Sexual Assault Referral Centre if appropriate.
- 4.5 The Reporting Party and Responding Party may be signposted to the Students' Union Advice Service, the appropriate Staff Trade Union, or the Citizens Advice Bureau, where appropriate to access, impartial and confidential advice.

5 Safeguarding

The University reserves the right, and may be under an obligation, to share information in circumstances where it may be necessary to protect any individual or the wider University community from harm or to prevent a crime from taking place. Anyone who has made a face to face disclosure will be kept informed if it is felt this action needs to be taken

6 Third-party or witness disclosures

Where the person disclosing is a third party who has not experienced the sexual misconduct, such as a person who has witnessed misconduct taking place or has been informed of the misconduct, the University will respect the right of the individual who experienced the incident to choose how to take forward a disclosure. A third party disclosure will only come a report if the individual who experienced the incident wants action to be taken as part of the disclosure.

There may be certain circumstances where the University is required to take appropriate action to prevent potential harm to individuals or the University, based on a risk assessment, which may include acting on information despite or without knowledge of the wishes of the individual(s) who experienced the incident, the Director of Strategic Planning and student administration (in his absence the Executive Director of Human Resources) will act as the decision maker as to whether to escalate a disclosure to a report or a report to an investigation. The University will record if there is a decision from the Disclosing Party to withdraw their disclosure or a witness's disclosure.

7 Monitoring

- 7.1 The University will maintain a central record of incidents to effectively engage in prevention and response initiatives. The Director of Strategic Planning and Student Administration will keep a record of anonymised Disclosures and Reports of Sexual Misconduct and Violence incidents involving students and/or staff for trend monitoring purposes. The Director of Strategic Planning and Student Administration Services will ensure that the, the Vice Chancellor's Executive team, Audit Committee on behalf of the Board of Governors are regularly provided with anonymised data concerning the cases that are dealt with under this procedure. Any allegations of a staff member physically or sexually assaulting a student is reportable to the Charity Commission and Higher Education Funding for Wales (HEFCW). The reporting is via the Clerk to the Governors or the University Solicitor in their absence, in line with the University's Procedure on Reporting Serious Incidents

8 Procedure following a Disclosure and/or Report

- 8.1 Disclosure and Reporting are separate actions that the Reporting Party may choose to take. The University recognises the importance of minimising the number of times the Reporting Party has to disclose an incident of Sexual Misconduct and Violence.
- 8.2 The process below will be initiated following receipt by the University of a Disclosure of an incident of Sexual Misconduct and Violence or policy breach. The Disclosure may be received in a variety of ways and may not necessarily be brought forward by the Reporting Party.
- 8.3 A Disclosure may relate to a Responding Party who is or is not a member of the University community. A Disclosure does not automatically result in a Report to the University being made under the Sexual Misconduct and Violence Policy. The University respects the right of the Reporting Party to choose how to take forward a Disclosure.
- 8.4 Following a Disclosure, the Reporting Party will be given their reporting options along with information on resources for specialist support. The University recognises that the Reporting Party may require time and reflection before making a decision. The Reporting Party will be given the option and support to do one or more of the following:
 - report to the Police;
 - report to the University under the University's Sexual Misconduct and Violence Policy;
 - make no report of the incident; and/or
 - receive advice on the support that is available.
- 8.5 Staff will signpost anyone who discloses they have been targeted by someone engaging, or attempting to engage in a sexual act without the Reporting Party's consent or sexually touching the Reporting Party without their consent to the local Sexual Assault Referral Centre (SARC) so that they may access services provided. This will also allow the Reporting Party to make an anonymous report and have evidence stored while they choose if they want to report to the Police. Staff will signpost the Reporting Party to information from the Sexual Assault Referral Centre on how to preserve evidence. Staff can make a referral to the SARC on behalf of the Reporting Party with their agreement.
- 8.6 Staff who receive a Disclosure that may amount to a breach of the Sexual Misconduct and Violence Policy must inform the Lead Sexual Misconduct and Violence Officer, Director of Strategic Planning and Student Administration Services or the Executive Director of Human Resources, Deputy Lead Sexual Misconduct and Violence Officer in their absence as soon as practicable. They should seek support and advice and complete the Disclosure Recording Form if appropriate. They may, if the Reporting Party requests, omit the name of the Reporting Party and/or Responding Party.

Report

- 8.7 The Reporting Party may choose to make a Report to the University under the Sexual Misconduct and Violence Policy with the intention of the University initiating the investigation process set out in this Policy. To make a Report to the University, the Reporting Party may submit a written statement of the allegation to the Lead Sexual Misconduct and Violence Officer (LSMVO), Director of Strategic Planning and Student Administration Services indicating the Responding Party and any witnesses. Alternative reporting options may be available and the Reporting Party may request this information from the member of staff to whom they disclosed the incident of Sexual Misconduct and Violence. A Report cannot be investigated if the Reporting Party does not wish the substance of the allegation to be made known to the Responding Party.
- 8.8 Before any action is taken by the University, the Reporting Party will be asked to attend an initial meeting with a manager from the Quality and Regulation team or a member of

the Human Resources team should a member of staff be involved during which the procedure to be followed will be explained and the details of the report will be confirmed. If the Reporting Party is unwilling for the Responding Party to be informed of the allegation against them, the investigation cannot proceed. A note of the initial meeting will be sent to the Reporting Party who will be asked to confirm whether it is an accurate summary of the discussion and will outline that the University will be unable to take further steps and/or action in the absence of the Reporting Party not providing the name of the respondent party and/or or is unwilling for the Responding Party to be informed of the allegation against them. The Reporting Party will be signposted to appropriate support.

- 8.9 Following receipt of a confirmed Report to the University or a report to the Police, the Lead Sexual Misconduct and Violence Officer will instruct the Quality and Regulation team to organise an Initial Review Meeting (IRM) as soon as is practicable.
- 8.10 Pending the IRM, the Lead or Deputy Lead Sexual Misconduct and Violence Officer (LSMVO), shall take such steps as may be necessary to:
- undertake a risk assessment;
 - ensure that the students involved receive appropriate academic, student union and pastoral support;
 - ensure that the staff member involved receives appropriate staff or trade union support
 - safeguard the health, safety and welfare of members of the University community; and
 - ensure that confidentiality is maintained as appropriate.
- 8.11 The decision to begin formal investigation following a Report can only be made at the IRM if supported/requested by the Reporting Party, and staff and students must not attempt to investigate the incident or inform the Responding Party or any other student of the Report or Disclosure.

9 Responding to a Report and Initial Review Meeting

- 9.1 The IRM will be chaired by the Lead or Deputy Lead Sexual Misconduct and Violence Officer (or their nominee in their absence). The purpose of an IRM is to assess support needs, consider how to protect the interests of all parties and members of the University community who may be affected by the case and to agree next steps and decided which is the most appropriate policy to follow i.e. Dignity at Work Policy or Sexual Misconduct and Violence Policy.

The Report will not be investigated at the IRM.

- 9.2 The membership of the IRM will depend upon the nature of the alleged incident and will be determined by the Lead Sexual Misconduct and Violence Officer (or their nominee). The membership may include, as a minimum:
- Lead Sexual Misconduct and Violence Officer (or their nominee);
 - Deputy Lead Sexual Misconduct and Violence Officer (or their nominee);
 - The Executive Director of Operations (or their nominee);
 - The Student Advice and Guidance Manager (safeguarding)
- 9.3 In addition, other relevant internal and external expertise may be called upon and consideration will be given to the inclusion of external stakeholders who are actively involved in supporting the student/s or staff member affected or who can make a contribution to the purpose of the IRM. This may include, but is not limited to, representatives from a Sexual Assault Referral Centre, the Rape and Sexual Abuse

Counselling Centre or the Safeguarding Manager based within the local Police force.

9.4 In determining the membership of the IRM, the Director of Strategic Planning and Student Administration Services will ensure that University members of the IRM have received appropriate training. The gender composition of the IRM will be taken into account.

9.5 During the IRM, the members will:

9.5.1 Consider the academic, welfare and support needs of the Reporting Party and of the Responding Party and of any other members of the University community directly involved in the Report and identify any actions required to ensure in so far as possible that those needs are met;

9.5.2 Undertake a risk assessment in order to determine whether any precautionary measures need to be put in place in order to:

- ensure that a full and proper investigation can be carried out (either by the police or University) and/or;
- implement measures to reasonably ensure the safety and wellbeing of those involved during an investigation carried out by the Police or University;
- consider the Sexual Misconduct and Violence Guidance for precautionary measures to be put in place.

10 Investigating a report under this procedure

10.1 Where the IRM recommends that a Report should be investigated under this procedure, the following process will apply.

10.2 One or Two Investigator/s as appropriate who have been trained in investigating will be appointed. The Investigator/s will seek to gather evidence as to whether or not a breach of the University's Sexual Misconduct and Violence Policy has occurred. The investigation will be supported by either the Quality and Regulation or Human Resources team, it may be deemed appropriate to have both teams.

10.3 Following a decision by the IRM that an investigation should be undertaken, this should begin as quickly as possible and will normally begin within 5 working days of the IRM meeting. All parties involved will be expected to maintain appropriate levels of confidentiality. The Reporting Party and Responding Party will be informed that they must not make any contact with each other during the course of the investigation unless otherwise instructed by the Investigator/s. Guidance on how to mitigate any potential contact will be provided to both parties. Additional precautionary measures will be implemented as appropriate.

10.4 The Reporting and the Responding parties will be asked in advance if they wish to use the Welsh Language and if they wish to have the meetings and correspondence in Welsh. If either party wishes to use the Welsh Language a translation service will be provided for meetings and all correspondence relating to the matter will be in Welsh.

10.5 The Investigator/s will act promptly and tactfully, observing appropriate levels of confidentiality at all times. The Investigator/s will take appropriate measures to provide a safe, comfortable and supportive environment in which to discuss the Report with the Reporting Party, Responding Party and any witnesses during investigation meetings. The Investigator/s may consult external parties to seek specialist advice as required while maintaining confidentiality.

10.6 The purpose of an investigation meeting is to provide each party with a full and fair opportunity to explain or present their version of events. Investigation meetings will be conducted with sensitivity. All students and staff meeting with the Investigator/s will be provided opportunities for breaks during the investigation meeting should they be required.

- 10.7 All students and staff involved in the investigation process have the right to attend any meetings accompanied for support by a member of the University community such as a member of staff, Students' Union representative or a fellow student or a member of Staff or trade union representative.

The student or staff member is expected to speak on their own behalf; there is no automatic right for an accompanier to speak on the student's or staff behalf and it is at the University's discretion as to whether the accompanier is permitted to address the meeting.

- 10.8 The order of investigation meetings is at the discretion of the Investigator/s, but normally the first meeting will be held with the Reporting Party. The Reporting Party will be required to attend an investigation meeting with the Investigating Officers. The Reporting Party may be accompanied for support by a member of the University community or a member of a specialist external agency such as the Sexual Assault Referral Centre or Rape Crisis.
- 10.9 The Responding Party will receive written notification of the procedure being followed, a copy of the original report submitted, outlining the allegations made against them and any additional supporting documentation submitted by the Reporting Party. The Responding Party will be required to attend a meeting with their chosen representative, if so desired, with the Investigator/s. Prior to meeting with Investigator/s, the Responding Party will be required to submit a written response in reply to the documentation provided at least two working days ahead of the scheduled investigation meeting. During this meeting the procedure will be explained and the details of the allegation against them will be confirmed. The Responding Party will be given a full and fair opportunity to explain or present their version of events in response to the allegation.
- 10.10 The Reporting Party and Responding Party may identify witnesses for the Investigator/s to contact. Witnesses will be required to keep the details of the investigation confidential. Witnesses (in all cases willing) will be required to submit a written statement for the investigation and may be asked to attend an investigation meeting at the discretion of the Investigator/s. The witnesses' statements will be provided to the Reporting and Responding Parties. The witnesses will not normally be provided with any investigation materials.
- 10.11 All students and/or staff involved in the investigation process must submit any and all relevant evidence at the time of the investigation. All evidence submitted will be shared with the Reporting Party, Responding Party and the investigators,
- 10.12 In all investigatory meetings, notes will be made and the interviewee will be asked to confirm that it is an accurate summary of the discussion. Copies of the notes, with any comments, will be retained by the interviewee and the Investigator/s; these notes will not be shared with the other party (other than those outlined in 8.9). Students and staff have the option to choose to have the meeting audio recorded by request.
- 10.13 The Investigator/s may hold additional meetings or consult with additional parties as necessary to obtain relevant information and evidence.
- 10.14 On the balance of probabilities, the Investigator/s will determine whether the evidence available indicates a breach of the policy. The Investigator/s may find:
- 10.14.1 The evidence does not support a breach of the policy; therefore, no further action is required. In such an instance, the case will be dismissed and no disciplinary process will be instigated, but continued support will be offered to both parties;
- Or
- 10.14.2 The evidence does indicate a breach of the policy and a recommendation that a disciplinary process should be entered into is made. In such an instance, the Investigator/s will be required to determine the categorisation of the breach (see section 9) and follow the appropriate further action under

the Disciplinary Policy or other relevant policy.

11 Categorisation of Major or Non-major Breach of the Sexual Misconduct and Violence Policy

11.1 If the Investigator/s determine that further action is required, they will be required to reach a determination of whether the breach of the Sexual Misconduct and Violence Policy is a non-major or major breach of the policy.

11.2 The nature of the misconduct found, the evidence of the misconduct and any mitigation present in the case will be taken into account when determining whether the case will be classified as a major or non-major breach of the Sexual Misconduct and Violence Policy.

11.3 Lists of the types of behaviour which may be considered to constitute a non-major breach and a major breach are set out below. The lists are illustrative only and are not exhaustive. Following each list are the actions which may be taken by the Investigator/s if the misconduct fits in that category.

11.4 Non-major breach offence

11.4.1 Non-major breaches of the Sexual Misconduct and Violence Policy may include:

- kissing another person on the hand or cheek without consent where the evidence indicates that an element of force or other harassment behaviours were not involved;
- a single incident of following another person without good reason where there is no threatening or abusive behaviour involved;
- making a single remark of a sexual nature where there was clearly no intention to cause offence;
- one-off acts of nudity involving inappropriate display of sexual organs to others where the act is not focused upon any individual and does not contravene the University's Safeguarding policy.

11.4.2 In the event the Investigator/s find a non-major breach of the policy, the Investigator/s acting as Authorised University Officer/s will make recommendations for appropriate sanctions within a report and submit the report to the appropriate senior manager for progress.

11.4.3 The circumstances and context of each case will be taken into account when determining whether a sanction/s should be imposed and if so, which sanction/s should be imposed and, where relevant, the timeframe for compliance. The following list provides examples of sanctions, which may be imposed by the senior manager for a non-major breach of the Sexual Misconduct and Violence. The list is illustrative and is not exhaustive:

- Undertaking additional training or attend an appointment for counselling.
- A reprimand.
- A permanent restriction on contact with a named person or person(s) (i.e. No Contact Order).
- A reasonable additional sanction given the nature of the incident

11.4.4 If the Responding Party fails to comply with the sanctions imposed by the senior manager within the time specified, they may be considered to be in breach of the sanction and the senior manager may refer the matter to the Deputy Vice Chancellor or refer the matter to the staff disciplinary procedure

11.5 Major Breach

11.5.1 Breaches of the Sexual Misconduct and Violence Policy that would may constitute a major breach offence may include:

- engaging or attempting to engage in a sexual act without consent;
- kissing another person without consent where the presence of force is substantiated by the evidence;
- sexually touching an individual without consent;
- threatening or abusive behaviour of a sexual nature;
- pattern of coercive or controlling behaviour;
- recording, sharing and/or distributing intimate images or recordings of another person without their consent;
- instances where non-major Sexual Misconduct and Violence breaches are frequent or repeated or the Responding Party fails to comply with disciplinary decisions or sanctions; or
- A conviction of a criminal offence or a Police caution in relation to behaviour that falls within the scope of the University's Sexual Misconduct and Violence Policy.

11.5.2 If the Investigator/s determine that the student misconduct is a major breach of the Sexual Misconduct and Violence Policy, they will refer the matter to the Deputy Vice Chancellor as an alleged major breach offence.

11.5.3 If the Investigator/s determine that the staff misconduct is a major breach of the Sexual Misconduct and Violence Policy, they will submit a report to the appropriate senior manager and the matter will then be dealt with under the appropriate staff disciplinary procedure.

11.6 The Investigator/s will provide an investigation report to the Reporting Party, the Responding Party explaining their written decision summarising their findings and considerations which led them to reach their decision and outlining any sanctions, recommendations or next steps required.

12 Request for a Review

12.1 Should the Reporting Party and/or the Responding Party be a student and following the conclusion of the investigation, the Reporting Party and/or Responding Party may request a review of the determination reached by Investigator/s in writing to the Deputy Vice Chancellor within 10 working days of notification of the investigation findings, .

Should the Reporting Party and/or the Responding Party be a staff member, that staff member may request a review of the determination reached by Investigators in writing to the Vice Chancellor within 10 working days of notification of the investigation findings.

12.2 In the event an IRM concludes the report received does not meet the criteria for investigation by the University (section 2), the Reporting Party can request a review of that decision in writing to the Deputy Vice Chancellor or the Vice Chancellor if a member of staff no later than 14 days of notification of that decision.

12.3 A request for a review can be made on the following grounds only and should include supporting evidence where appropriate:

- Evidence that the Investigator/s did not follow appropriate procedure in investigating the Report and that this had a material effect on the investigation outcome, making it unsound; and/or
- Substantial and relevant new information which the Reporting Party or Responding

Party was unable to provide previously for a good reason and that this had a material effect on the investigation outcome, making it unsound.

- 12.4 The review process cannot be used to challenge the classification of misconduct as a non-major or major breach of the Sexual Misconduct and Violence Policy.
- 12.5 The Vice Chancellor (for staff members) and the Deputy Vice Chancellor (for students), or their nominee, may choose to undertake the review if they are independent of the case or will identify a senior officer, independent of the case to undertake the review (Reviewer). The Reviewer will not re-investigate the report. The request will be reviewed on the basis of the documentation provided by the student or staff member and that held by the Investigator/s. The Reviewer may seek further information if necessary.
- 12.6 At the discretion of the Reviewer, during the Review period any sanctions determined by the Investigator/s will remain in force until the review decision determines grounds for these to be overturned.
- 12.7 If the Reviewer decides the review is upheld for one or more reasons, they may decide either:
 - To refer the case back to the original Investigator/s for continued investigation in light of new evidence or in a procedurally correct manner;
 - Require a new investigation by new Investigator/s
- 12.8 If the Reviewer decides that the case has been handled fairly and the outcome is reasonable, the review request will be dismissed.
- 12.9 If both parties submit a review request a single Reviewer will review both requests.

The review is confined to consideration of whether the grounds for the review are demonstrated or not. The review will not re-investigate the report.
- 12.10 At the point a request for review is accepted, the other party will be informed of the review and the timeline to be informed of the outcome.
- 12.11 Both parties will be informed of the outcome of the review request within 28 days of receipt. In all instances the decision reached by the review is final. In the event the Reviewer determines that a new investigation should take place, an additional review request will not be available. This procedure provides both parties a single opportunity to request a review.