

SEXUAL MISCONDUCT PROCEDURE

July 2024

Contents

Summary.....	4
What is this document about?	4
Who is this for?.....	4
How does the University check this is followed?	4
Who can you contact if you have any queries about this document?.....	4
1.Introduction and definitions.....	4
2. Scope of procedure.....	5
3. Support available.....	5
4. Police investigations.....	6
5. Initial disclosure and support.....	7
6. Reporting process.....	7
7. Risk assessment and next steps.....	8
8. Principles of investigation.....	8
9. Appeals.....	9
10. Glossary of terms.....	9
Appendix A - Disclosures of Sexual Violence - A quick guide for staff.....	10
Flowchart to accompany procedure.....	11

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The latest version of this document is always to be found at:

<https://policies.docstore.port.ac.uk/policy-290.pdf>

Summary

What is this document about?

This document sets out how the University will respond to incidents of Sexual Misconduct, where the reporting victim/survivor is a University of Portsmouth student. For the purposes of this Procedure, the University views sexual misconduct as sexual violence and harassment, which can include a range of unwanted physical and non-physical behaviours affecting members of the University community.

Who is this for?

This document is primarily intended to provide guidance for University of Portsmouth Staff and students.

How does the University check this is followed?

The Student Support Services Leadership team maintains oversight of this procedure and will ensure relevant staff are aware and receive regular training. This procedure is intended to support both staff and students and compliments the Student Conduct Policy overseen by Academic Registry.

Who can you contact if you have any queries about this document?

Any queries should be addressed to the Student Support Services Leadership team - SSSDirectors@port.ac.uk

The Sexual Misconduct Policy can be found at:

<https://policies.docstore.port.ac.uk/policy-280.pdf>

Sexual Misconduct Procedure

1. Introduction and Definitions

1.1) This procedure sets out how the University will respond to incidents of Sexual Misconduct, where the reporting victim/survivor is a University of Portsmouth student.

1.2) For the purposes of this Procedure, the University views sexual misconduct as sexual violence and harassment, which can include a range of unwanted physical and non-physical behaviours affecting members of the University community. Sexual misconduct can be perpetrated by anyone.

1.3) Reporting Party – the person who discloses and then formally reports an allegation of sexual misconduct perpetrated by another person.

1.4) Responding Party – the person who is the subject of a formal report alleging they have perpetrated sexual misconduct.

1.5) This document should be read in conjunction with:

- [The Sexual Misconduct Policy](#) - which outlines the University's view of sexual violence and misconduct and provides definitions
- The [Student Conduct Policy](#) - which outlines the procedure which should be followed in the event of a formal report to the University.

2. Scope of Procedure

2.1) This procedure applies to all reported incidents of Sexual Misconduct between the University's students.

2.2) 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. In the event that the Responding party is a member of staff or contractor of the University, action will be taken by HR in accordance with the staff [Disciplinary Policy](#).

3. Support available

3.1) Support is available to any member of the University who discloses an incident regardless of whether or not they make a formal Report to the University or Police.

3.2) Support is available to the Reporting Party and the Responding Party through specially trained staff in the Student Life Team and Student Wellbeing Service. This may include signposting or referral to external services.

3.3) The Reporting and Responding Parties may be signposted to the Students' Union Advice Service to access free, impartial and confidential advice.

4. Police investigations

4.1) Where a criminal investigation or judicial proceedings are ongoing or are likely to commence, the University will not normally commence an internal investigation or may suspend an ongoing investigation. In all instances the University may consider necessary Intervention Measures as per section 3.5 of the [Student Conduct Policy](#).

4.2) A decision by the Police or Crown Prosecution Service to take no further action in relation to a criminal matter or an acquittal at a trial does not preclude the University from taking action under this procedure and does not mean the Reporting Party has made a vexatious or malicious report.

4.3) The University will advise the Reporting Party that it does not have the legal investigatory powers of the Police, and cannot determine criminal guilt. The internal process cannot be regarded as a substitute for a Police investigation or criminal prosecution.

5. Initial Disclosure and Support

5.1) At any point during their studies, a student may contact the University to disclose an experience of sexual misconduct. Disclosure and reporting are separate actions that the Reporting Party may choose to take.

5.2) 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 under the Sexual Misconduct Procedure. The University respects the right of the Reporting Party to choose how to take forward a disclosure.

5.3) A disclosure will be treated as a support matter and will not normally extend to a formal report against another person without the Reporting Party's agreement. However, in exceptional circumstances, the University may identify the need to take further action under this Procedure (for example, on the basis of risks to the wider University community). Any decision such as this will be guided by safeguarding and trauma-informed principles and a Risk Assessment will be completed.

5.4) In all cases, if the student requires immediate medical attention, the emergency services should be called on 999 and the Security lodge must be informed on (023) 9284 3333.

5.5) Staff who receive a disclosure that may amount to a breach of the Student Conduct Policy should refer the student to the Student Life team via Report and Support Tool. The Student Life Team will contact the student and arrange for them to speak with a Sexual Violence Liaison Officer (SVLO) who will provide practical, emotional and confidential guidance on the next steps.

5.6) The team of SVLOs have had specialist training to support and advise students who have experienced any form of sexual violence. This service is available to all students, regardless of when or where the incident took place. Where the Reporting Party indicates a preference to be supported by staff of a specific gender, the University will comply with this, if possible.

5.7) Following a disclosure, the Reporting Party will be given the option and support to do one or more of the following:

1. Report to the Police (appropriate contact details can be provided)
2. Report to a SARC (Sexual Assault & Rape Referral Centre)
3. Report to the University under the Student Conduct Policy
4. Make no report of the incident and/or receive advice on the support that is available

5.8) For further information and advice on receiving a disclosure, please refer to the Guidance for Staff - Disclosures, in Appendix A.

5.9) If the Reporting Party does not report the incident to the police, this does not preclude the University from taking action under the Student Conduct Policy, and it will not impact the investigation process.

5.10) If the reporting parties confirm they wish to make a police report they will be referred to the formal reporting channels via 101 or online using the [Report a Crime](#) link.

5.11) Regardless of the action taken, both the reporting and responding parties (if known) will be offered Support from the appropriate Student Support Service, facilitated by the Student Life Team.

5.12) The SVLO will provide the Reporting Party with clear information, both verbally and in writing, about the support and reporting options available, the University's processes and potential outcomes, and the limitations on information sharing. The SVLO will manage expectations regarding timelines and confidentiality, and maintain regular communication with the Reporting Party throughout the process.

6. Reporting process

6.1) Following an initial disclosure, the Reporting Party may choose to make a formal Report to the University with the intention of the University initiating the investigation process under the Student Conduct Policy.

6.2) If the student confirms they wish to submit a formal report they will be asked to attend an initial meeting with a member of the Student Life Team or another Sexual Violence Liaison Officer (SVLO).

6.3) During the meeting, the Student Conduct procedure will be explained including timescales. The Reporting Party can be accompanied for support by a member of the University community, including a Students' Union representative, a student, family member, friend, or member of a specialist external agency.

6.4) To make a Report to the University, the Reporting Party should submit a written statement of the allegation which is submitted to the Head of School of the reported student, indicating the Responding Party. They will commence the investigation and alert disciplinarycases@port.ac.uk. If there are any witnesses to the event these should be identified, although a decision to proceed is not reliant on witnesses.

6.5) A Report cannot be investigated if the Responding Party is not identified, or if the Reporting Party does not wish the substance of the allegation to be made known to the Responding Party.

7. Risk Assessment and Next Steps

7.1) Following the meeting with the SVLO, a Risk Assessment will be conducted to determine whether any precautionary measures are recommended. Precautionary enquiries with other areas of the University may be appropriate at this time to inform the next stage of the process. As per the Student Conduct Policy, recommended intervention measures may include one or more of the following:

- a. Imposing conditions on the Responding Party, including a "no-contact agreement"
- b. Suspending the Responding Party
- c. Ensure arrangements are in place to maintain confidentiality as appropriate

7.2) Once a confirmed Report is submitted for investigation and the Risk Assessment completed, the SVLO will discuss the case with the Director/Deputy Director(s) of Student Support Services who will present their recommended actions to the Disciplinary Cases team. The team will then confirm the relevant step of the Student Conduct Policy to be implemented and any agreed intervention measures implemented with final authorisation from the Academic Registrar.

7.3) In exceptional circumstances, the Director/Deputy Director(s) of Student Support Services may authorise a temporary suspension relating to specific regulated activity under its Safeguarding responsibility. Any such actions will be reviewed by the Academic Registrar at the earliest opportunity.

7.4) Where there are active criminal proceedings relating to the case, the University will normally be limited to taking intervention measures only, rather than being able to conduct its own investigation or take a case to a disciplinary panel. The University will liaise closely with the relevant police force where applicable. Respondents will be expected to comply with any bail conditions and to keep the University informed of their case.

7.5) Where the Responding Party is on a programme of study leading to professional membership, acceptance or ability to practise in a profession, they will also be subject to the Fitness to Practice Procedure.

7.6) Any agreed intervention measure or mitigating actions will be shared with relevant departments (e.g. Sport and Recreation) and the Students Union when appropriate.

7.7) The University will ensure there is a legal basis for any disclosure of information. Relevant information will be shared as necessary between university departments to facilitate support and risk mitigation, with appropriate data protection safeguards in place.

7.8) Where the Reporting Party or Responding Party is on a placement as part of their studies, the University will liaise with the placement provider to assess whether the student can safely continue on placement during the investigation. The University will conduct its own risk assessment, taking into account the placement provider's decision. Responsibilities and information sharing between the University and placement provider will be agreed upon in advance.

7.9) If a Reporting Party makes a disclosure of sexual misconduct that occurred on placement, the University will provide support and will work with the placement provider as appropriate to address any ongoing risks and support needs.

8. Principles of Investigation

8.1) Where the decision has been made to commence an investigation under the Student Conduct Policy (Unacceptable Behaviour process), the following guidance should be followed alongside the overarching policy.

8.2) A University Investigator will be appointed as per section 12.1 of the Student Conduct Policy and they will seek to gather evidence as to whether or not misconduct has occurred. Ideally this will be a person who has experience in managing/investigating sexual misconduct cases but this may not be possible in all cases.

8.3) The purpose of the investigation meetings is to provide each party with a fair opportunity to present their version of events.

8.4) Reasonable adjustments will be made to any meeting format to support the Reporting and Responding parties, such as allowing breaks, using screens or video links, and adapting questioning styles. The Responding Party will be provided with evidence in advance and allowed to attend the panel meeting. The admissibility and weight of different types of evidence, including hearsay, will be considered. The decision will be made on the balance of probabilities, based on the evidence presented.

8.5) Investigation meetings will be conducted sensitively and separately, following a trauma-informed approach. The approach must consider the traumatic impact of the sexual misconduct behaviour itself, as well as the potential traumatic impact of the disciplinary process.

8.6) Practical Trauma-Informed principles include:

Choice - Speak with the reporting party to offer options around the location of the process and the investigator themselves (e.g. the student may have a male/female preference depending on the nature of the incident).

Control - Empower the student to take an active role in the process (e.g. setting boundaries for the meeting, ensuring the student feels in control and able to indicate if feeling overwhelmed).

Trust - Be clear about what will happen and ensure you do what has been promised (e.g. meeting deadlines, clear communication etc).

8.7) All students involved in the process can be accompanied for support by a member of the University community, including a Students' Union representative, a student, family member, friend, or member of a specialist external agency. The accompanier is there to provide moral support and may not be a legal representative. The student is expected to speak on their own behalf.

8.8) Requests for legal representation at investigation meetings or hearings will be considered on a case-by-case basis, taking into account the seriousness, complexity and potential consequences of the case. If legal representatives are permitted to attend, their role will be limited to advising their client and they will not be allowed to answer questions on the student's behalf.

9. Appeals

9.1) Following the conclusion of the investigation, the Reporting Party and/or Responding Party may appeal against the outcome, following the process detailed in the Student Conduct Policy.

10. Glossary of terms

Disclosure: involves an individual choosing to tell anyone who is part of the University community about their experience of Sexual Violence and Misconduct.

Report: the sharing of information with a staff member of the University regarding an incident of Sexual Violence and Misconduct experienced by that individual for the purposes of initiating the investigation process by the University.

Reporting Party: the person(s) who has been the subject of the alleged incident of Sexual Violence and Misconduct or other policy breach.

Responding Party: the person(s) whose behaviour it is alleged amounted to an incident of Sexual Violence and Misconduct or other policy breach.

Sexual Violence Liaison Officer (SVLO): a trained member of staff who provides a proactive support and advice service to any students who have experienced sexual violence.

No-Contact Agreement: this is a mutual arrangement between two individuals who agree that they will not have direct contact with each other in person, electronically or via friends.

Trauma-informed approach: this is an approach to dealing with incidents that recognises the widespread impact of trauma and incorporates victim-centred practices.

Balance of probabilities: the balance of probabilities standard means that a disciplinary panel is satisfied an event occurred if it considers that, on the evidence, the occurrence of the event was more likely than not.

Appendix A - Disclosures of Sexual Violence - A Quick Guide for Staff

The University of Portsmouth takes a zero-tolerance approach to sexual violence and misconduct, and aims to foster a culture of dignity and respect.

Students may disclose information to you as someone they feel they can trust and it's important the student is empowered and feels in control of their information and the conversation. Whilst a student may feel comfortable making a disclosure to you, you may not be the best person to share this information with.

This 'Quick Guide' provides clarity on how University of Portsmouth staff are expected to respond to students who disclose an incident(s) of sexual violence.

What is Sexual Violence?

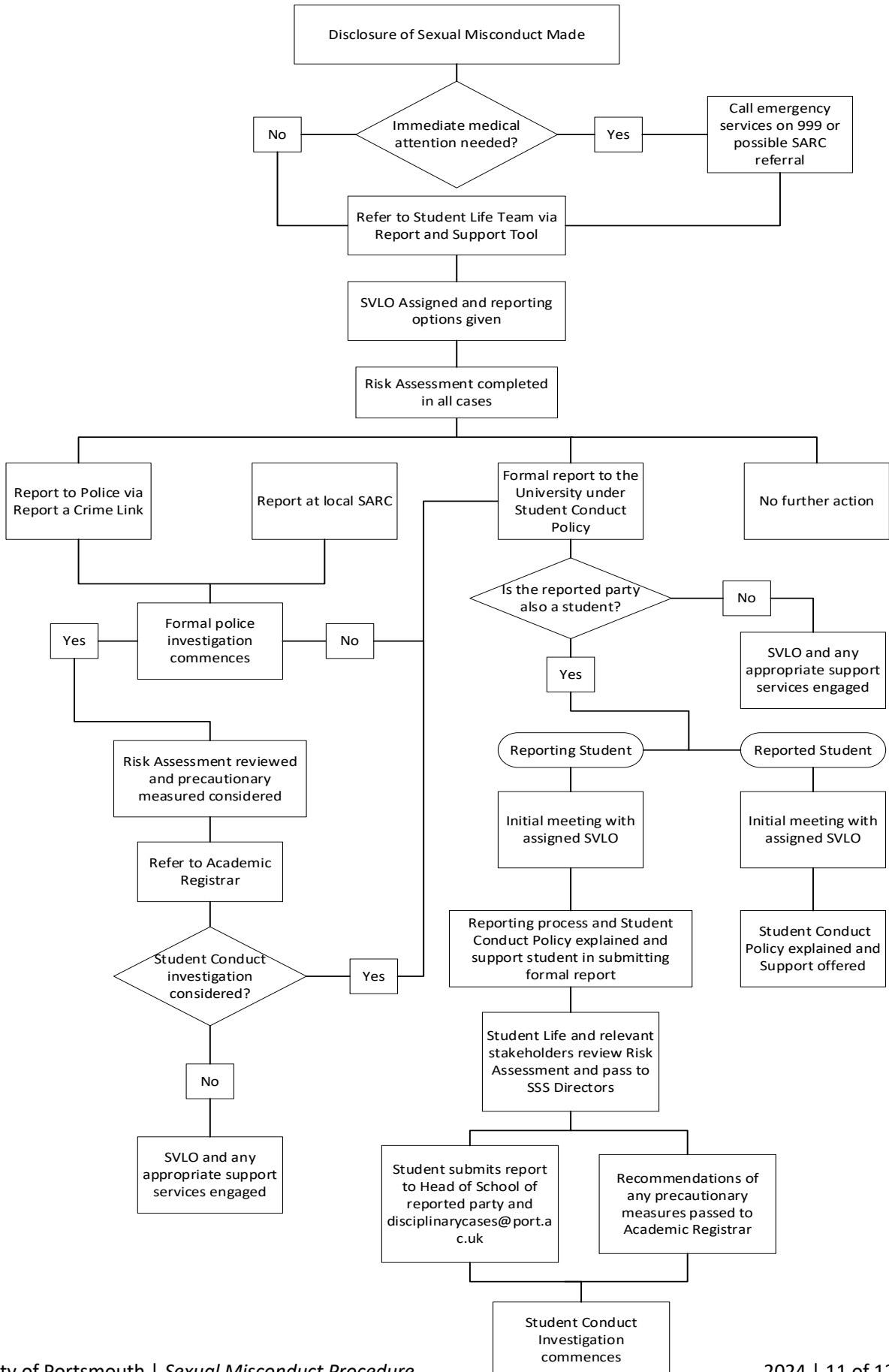
Sexual violence is defined as any behaviour perceived to be of a sexual nature which is unwanted and takes place without consent or understanding.

If a student starts to make a disclosure you should not:

- Promise confidentiality - it is likely you will need to share this information with specialist colleagues in Student Support Services.
- Ask the student to explain what happened in any detail
- Ask any leading or probing questions about the incident, who else was involved or the name of any reported parties
- Contact the Police or other external services on the student's behalf, without their consent.

If a student starts to make a disclosure you should:

- Show compassion, empathy and understanding
- Acknowledge the severity of the situation and the student's strength shown to make a disclosure
- Explain that you will need to share the student's details with the Student Life team (the University's Sexual Violence Liaison Officers, SVLOs)
- Explain that SVLOs can speak to the student about practical and emotional support, as well as their options for formally reporting the incident, or not. SVLOs will respect a student's wishes to take matters forward or not.
- Explain their disclosure will be treated with the utmost sensitivity, and shared only with those who need to know to understand their options.
- Look after your own wellbeing - disclosures can be received by anyone, and it's a sign of trust that the student has told you. If you are impacted by a disclosure, help is available to you; further information can be found [here](#).



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