

Student Complaint Procedure (Individuals & Behaviour)

1. Scope and Purpose

1.1 All students have the right to study and to feel safe in an environment which is free from harassment and bullying. This policy has been written to support the development of a learning environment (including online learning) in which harassment and bullying are unacceptable and the understanding of this is such that students have the confidence to complain, without fear of reprisal or recrimination, in the knowledge that their concerns will be dealt with seriously, appropriately and fairly.

1.2 This procedure sets out how the University will deal with incidents of bullying and harassment by student members of the University community.

1.3 More specifically, the objectives of the Policy are to:

- Enable students to identify and understand what harassment and bullying are;
- Provide a framework for handling complaints of harassment and/or bullying against students; and
- Ensure all incidents are dealt with in a consistent, fair and appropriate manner.

2. Durham University's Commitment

2.1 The Wider Student Experience Strategy adopted by Council in July 2020 describes the “unacceptable behaviours that have been exhibited by a minority in recent years” and asserts that “the University cannot achieve what it hopes for while such behaviours are allowed to continue in any shape or form”. The Commission on Respect, Values and Behaviours in 2019-20 found that bullying and harassment were frequently experienced by students and not sufficiently controlled by existing procedures. The Wider Student Experience Strategy therefore set the University a strategic goal of “Embedding Responsibility and Respect”, under which “the University will foster a student culture that places a universally high value on respect and concern for others”. This revised Policy and Procedure is one step in the achievement of that strategic goal.

2.2 Durham University is fully committed to the development of policies and procedures to eliminate discrimination and actively promote equality of opportunity for students. The University believes that where respect for diversity and equality of opportunity exist, all students work in a more rewarding and less stressful environment; it will be one where discrimination, prejudice and harassment are not accepted, and one more likely to enhance performance and achievement, allowing all members of the University community to fully demonstrate and use their skills and talents and achieve their full potential.

2.3 Allegations of harassment and bullying will be treated very seriously by the University and may result in disciplinary action being taken against the person who committed the unwanted behaviour. As the University views harassment and bullying as serious offences, any individual who makes a vexatious, demonstrably false or malicious claim of harassment or bullying will be dealt with in accordance with the University's Code of Practice on Student Behaviour in Appeals and Complaints and may be subject to disciplinary procedures as specified in General Regulation IV – Discipline.

2.4 As part of its commitment to eliminating harassment and bullying, the University undertakes to:

- Apply the Policy equally to all students registered at the University;
- Ensure an initial acknowledgement to any complaint is normally issued to the Reporting Party within 5 working days of the complaint being received and to keep all parties informed of the progress of the complaint;
- Treat all allegations of harassment or bullying seriously, fairly, sensitively, promptly and with appropriate regard to confidentiality;
- Publicise this Policy as widely as possible in order to ensure that students are aware of its existence;
- Provide Bullying and Harassment Advisors who will be available to advise and assist students (details of the advisors are available at www.durham.ac.uk/equality.diversity/harassment/supportadvisors/); and
- Monitor the effectiveness of the Policy.

3. Roles and Responsibilities

3.1 It is the responsibility of every member of the University community to help the

University community to achieve an inclusive and supportive environment, free from discrimination and to promote good relations between all people.

3.2 All students have a personal responsibility to behave in a way that is not offensive to others and to acknowledge that views and opinions held by others may not always coincide with their own. Such differences of opinion are unlikely to constitute harassment.

3.3 Where possible, students should discourage harassment and bullying by making it clear that they find such behaviour unacceptable.

3.4 Each student must comply with this Policy and any other University Code of Conduct, including future ~~codes~~. Students are responsible for ensuring that their behaviour could not reasonably be considered to constitute bullying or harassment of any individual or group.

3.5 Issues of harassment and/or bullying should be raised promptly and in a timely manner in order that any required action or investigation of such issues can be carried out at the earliest opportunity.

4. What are Bullying and Harassment?

4.1 Bullying and harassment are unwanted behaviours which cause an individual to feel intimidated, degraded, humiliated or offended. This unwanted behaviour may take different forms, such as discriminatory or offensive statements, unfair treatment, or undermining actions in the form of comments, physical gestures, facial expressions or jokes. This unwanted behaviour can take place face-to-face, by letter, by email, by social media and by phone and it may be persistent behaviour or a single isolated incident. The key is that these actions or comments are viewed as being hostile or intimidating, demeaning and unacceptable to the individual experiencing them, and likely to cause this person alarm or distress.

4.2 Bullying can be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power intended to undermine, humiliate, denigrate or injure the recipient¹.

4.3 Harassment is defined as behaviour which causes alarm or distress, or which puts people in fear of violence. Harassment may have either the purpose or the effect of violating an individual's dignity or create an intimidating, hostile, degrading, humiliating or offensive environment for that individual². If harassment is connected to an individual's (actual or perceived) age, sex, disability, gender reassignment,

marriage and civil partnership, pregnancy and maternity, race, religion or belief or sexual orientation, it is unlawful discrimination under the Equality Act 2010³.

4.4 Students may be subject to harassment and thus have a right to make a complaint even if the harassing behaviour is not directed at them personally, but instead at another student or member of staff.

4.5 It is recognised that differences in attitude, background and culture can often mean that what is perceived by one individual as harassment or bullying may not necessarily be perceived in the same way by another. It should be noted therefore, that when deciding whether bullying or harassment has occurred, the impact on the individual and whether the behaviour breaches the values and standards of the University will be the focus, rather than motive or intent. The values and standards of the University are outlined in the Student Pledge ([Student pledge - Durham University](#)).

4.6 Harassment or bullying can therefore, be verbal and non-verbal, face to face or online. The following provides examples but is not an exhaustive list:

- Verbal abuse.
- Insulting behaviour or personal insults.
- Sexist jokes, racist jokes, or jokes about an individual's sexual orientation, gender identity, disability, religion or belief or age.
- Behaviour which incites racial hatred, e.g., wearing racist insignia or badges.
- Offensive written or computer-generated material, including the use of social media or email.
- Unreasonable, unfair or offensive behaviour relating to an individual's disabilities or mischievous interference with personal aids or equipment.
- Unwanted physical contact ranging from touching to serious assault.
- Leering and offensive gestures.
- Display or circulation of sexually suggestive or racially abusive material.
- Coercive or menacing behaviour which interferes with dignity and privacy or which undermines an individual's self-confidence.
- Asserting a position of seniority in an aggressive, abusive or offensive manner e.g., inappropriate or derogatory remark in connection with performance of

duties / responsibilities.

- Intrusion by pestering, spying or stalking.
- Ridicule, isolation or exclusion from everyday social interaction or activities.

4.7 In some instances, harassment and bullying may be potentially considered as sexual misconduct and violence. Please also refer to the University's Sexual Misconduct and Violence Policy and Procedure for students.

4.8 Any difficulty in defining harassment or bullying should not deter students from seeking support or complaining of behaviour which causes them distress. They should also not be deterred because of embarrassment or fear of intimidation.

4.9 The University will respect the sensitivity of complaints of harassment or bullying, and their consequences, and will treat any complaint with the utmost confidentiality and in line with the provisions of the Data Protection Act. Complaints will not normally be taken further than the Reporting Party wishes.

5. Advice and Support

5.1 The University provides a range of support for students who feel they have been subject to harassment or bullying. It is recommended that students seek advice and support in the first instance.

5.2 This can be done in a number of ways:

Students' Union

Independent support is available to students through the Durham Students' Union Advice Service. They provide one-to-one support, advice and guidance on addressing issues informally or making a complaint under the Policy, and can provide support and advocacy to someone who is accused under the Policy. The Students' Union can also facilitate mediation between students or student groups where difficulties have arisen.

Report & Support Online Tool

Students can make reports of bullying and harassment through the Report and Support tool (<https://reportandsupport.durham.ac.uk>). This tool covers reports of unwanted behaviour, such as bullying and harassment, hate incidents, sexual misconduct and violence and domestic abuse.

Bullying and Harassment Support Advisors Network

The University operates a network of Bullying and Harassment Support Advisors who can be approached by students. The Advisors can be contacted directly (www.durham.ac.uk/equality.diversity/harassment/supportadvisors/), or through the Report and Support online tool by making a report.

College Student Support Offices

Staff in College Student Support offices can provide support and guidance for students being bullied or harassed.

JCRs, MCRs and GCRs

Student representatives in Common Rooms can provide support and guidance for students being bullied or harassed.

The Counselling & Mental Health Service

The Counselling & Mental Health Service offers a high standard of service in professional counselling for any student who finds that their difficulties are hard to manage, and/or their difficulties are affecting their studies. Please see www.durham.ac.uk/counselling.service/ for further details.

5.3 The University does not consider it necessary for students to seek independent legal advice in respect of complaints about bullying and harassment. It is entirely at students' discretion and cost if they choose to do so.

6. Procedures for making a complaint about individuals and behaviour

6.1 Principles

- 6.1.1 Where students consider themselves to be under physical threat or at serious risk of imminent harm, they should always contact the police in the first instance. Support for students in this situation can be provided by those members of the University community set out in the section "Advice and Support" above.
- 6.1.2 Students should raise complaints of harassment or bullying in a timely manner. Unless the University is notified of incidents of harassment or bullying within a reasonable length of time, the University may not be able to adequately investigate or take steps to prevent or eliminate harassment or

bullying.

- 6.1.3 All parties involved should act in good faith to seek a successful resolution of any complaint at as early a stage as possible.
- 6.1.4 All parties will be treated fairly, consistently and with respect.
- 6.1.5 A student raising a complaint under this procedure has the right to have the complaint investigated and handled appropriately by the University and meetings, decisions and confirmation of decisions will not be unreasonably delayed.
- 6.1.6 The individual or individuals against whom a complaint is made shall have the right to respond to any allegations made against them.
- 6.1.7 All parties involved in the investigation process must submit all relevant evidence at the time of the investigation. All evidence submitted will be shared with the Reporting Party, Responding Party, Investigator/s and case manager.
- 6.1.8 All complaints involving non-sexual physical violence will be considered under Formal Stage 2 of this process.
- 6.1.9 Attempts should be made to resolve each complaint informally. However, the University recognises that this may not always be possible or desirable and individuals have the right to request that their complaints are taken straight to a formal stage.
- 6.1.10 Use of a third party to help resolve the problem, whether internal or external, may be considered where deemed to be appropriate by the University.
- 6.1.11 A complaint determined by the University to be malicious, demonstrably false or vexatious may give rise to disciplinary proceedings against the Reporting Party.

6.2 Informal Stage

- 6.2.1 The student should discuss any incident of harassment or bullying with a trusted fellow student or with a member of the University community outlined under the section 'Advice and Support' above. The student should keep a note of the details of any relevant incidents which cause offence, including dates, times and the names of any witnesses; and any relevant emails,

notes etc.

- 6.2.2 In some less serious cases speaking to, or writing a letter to, the person concerned to let the person know that the behaviour is unacceptable, can be sufficient to remedy the situation and prevent any repeat of the unacceptable behaviour. For example: "I think your behaviour/remark is offensive and I want you to stop." A copy of any such correspondence should always be kept.
- 6.2.3 Often a person approached in this way may not have been aware that the actions have been perceived as harassment or bullying and thus stop the behaviour without the need for further action. Where the behaviour continues or if the behaviour is of a more serious nature, a student may consider a more formal approach necessary.

6.3 Formal Stage One

- 6.3.1 Where appropriate, students should speak or write to their Head of Department, member of staff in their College Student Support Office or the Principal/Master of their College. Students can request that these staff speak on their behalf to the person concerned in accordance with the Informal Stage.
- 6.3.2 In the event that these steps fail to resolve the matter students may request an investigation to be carried out by the Head of Department, member of staff in their College Student Support Office or the Principal of their College on behalf of the University. Advice about the conduct of the investigation can be sought from the Student Conduct Office in the case of complaints involving students.
- 6.3.3 The member of staff identified by the University to undertake the investigation will meet with the individual against whom the complaint is made to advise the person of the allegations and invite a response.
- 6.3.4 If appropriate, it may be advised that a meeting be held with both parties with the aim of facilitating a discussion and reaching a resolution. This may include the use of trained mediators where appropriate.
- 6.3.5 The outcome of a Formal Stage One complaint process may conclude:
- Complaint not founded;

- Situation mutually resolved; or
- Complaint founded.

6.3.6 Where a complaint is deemed by the University to be founded, but the University considers action short of formal disciplinary action to be appropriate in order to reach a suitable resolution, the University may request either or both of the following:

- The person against whom the complaint was made to offer a written apology to the student; and/or
- The person against whom the complaint was made to undertake additional training or personal counselling to ensure repeats of such behaviour shall not occur in the future.

6.4 Formal Stage Two

6.4.1 If it is determined by the University that Stage One has not resolved the situation or the incident under investigation involves non-sexual physical violence, the complaint will be investigated under Stage Two of the process. The [complaint form](#) is available on the Student Conduct Office webpages. Students should aim to provide as much information as possible of the events complained of, any supporting information and, where possible, a clear indication of the outcome sought.

6.4.2 The Student Conduct Office will acknowledge receipt of the complaint within 7 days. The Student Conduct Office will determine who should conduct an investigation. The Investigating Officer will be an appropriate and trained senior member of the University.

6.4.3 Investigating Officers will act promptly and tactfully, observing appropriate levels of confidentiality at all times.

6.5 Initial Review Meeting

6.5.1 Before any action is taken by the University, the Reporting Party will be asked to attend an initial meeting with a case manager, during which the procedure for investigations 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.

- 6.5.2 Following receipt of a confirmed Report to the University or a report to the Police, the Student Conduct Office will organise an Initial Review Meeting (IRM) as soon as is practicable.
- 6.5.3 The IRM will be chaired by the Head of Student Conduct (or their nominee). 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. The Report will not be investigated at the IRM.
- 6.5.4 The membership of the IRM will depend upon the nature of the alleged incident and will be determined by the HoSC (or their nominee).
- 6.5.5 In determining the membership of the IRM, the HoSC will ensure that University members of the IRM have received appropriate training. The gender composition of the IRM will be taken into account.
- 6.5.6 During the IRM, the members will:
- a) 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 that those needs are met;
 - b) 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);
 - implement measures to reasonably ensure the safety and wellbeing of those involved during an investigation carried out by the Police or University;
 - implement measures to reasonably ensure the safety and wellbeing of the wider University community.
 - c) Precautionary measures may include:
 - imposing conditions on the Responding Party (for example, requiring the Responding Party not to contact certain witnesses or requiring the Responding Party to move accommodation or prohibiting the

Responding Party from going to certain places within the University at certain times of the day);

- suspending the Responding Party (in which case General Regulation VI: Suspension will apply)
- Identify the members of staff within the University with responsibility for supporting the Reporting Party and Responding Party and, where appropriate, inform them of the outcome of the IRM;
- Ensure that arrangements are in place to maintain confidentiality as appropriate;
- Review the involvement of external agencies (e.g. Police);
- Decide/make recommendations about what the next steps should be and determine how to carry forward the decisions and/or recommendations that are made;
- Consider any other actions relevant to the alleged incident.

6.5.7 Actions arising out of the IRM may include (but are not limited to):

- a) The provision of further or different support to the students involved. The support measures may relate to academic, housing, finance, health and wellbeing matters.
- b) The imposition of precautionary measures on the Responding Party pending the outcome of the criminal and/or disciplinary process;
- c) A recommendation that a suspension be imposed on the Responding Party (under General Regulation VI) pending the outcome of criminal investigations/proceedings and/or internal investigations/disciplinary proceedings.
- d) A recommendation that the alleged incident be investigated under this procedure;
- e) Appropriate communication with the parties involved;
- f) Collection of further information necessary to inform future management of the situation;
- g) A recommendation that an investigation into an alleged incident that has already commenced should be suspended or terminated;

- h) Informing the Responding Party of the Report and the procedure for remote investigations and providing them with the option to participate in a remote investigation.
- 6.5.8 The Student Conduct Office will be responsible for ensuring that any decisions or recommendations made at the IRM are recorded and acted upon.
- 6.5.9 The risk assessment and any precautionary measures that are put in place will be reviewed regularly and amended as appropriate. Additional review meetings may be convened by the HoSC as they believe necessary.
- 6.5.10 Where either the IRM or the HoSC determines that an alleged incident should not be considered under this procedure, the Student Conduct Office shall provide the Reporting Party with written reasons for the determination and information about their right to request a review.

6.6 Investigation

- 6.6.1 An investigation will be undertaken as quickly as possible. All parties involved will be expected to maintain appropriate levels of confidentiality. The Reporting Party and Responding Party will be informed that they should not make any contact with each other during the course of the investigation unless otherwise instructed by the Investigating Officer.
- 6.6.2 The Reporting Party and any potential witnesses of the alleged offence will be required to attend a meeting with the Investigating Officer. Students may be accompanied by a member of the University community such as a member of staff, Students' Union representative or a fellow student. Members of staff may be accompanied by a trade union representative or work colleague. For the avoidance of doubt, the work colleague must be an employee of Durham University, not acting in a legal capacity.
- 6.6.3 Responding Parties will then be informed of the formal complaint made against them and asked to attend a meeting with the Investigating Officer. During this meeting the complaint procedure will be explained and the details of the allegation against them will be confirmed. They will be given a full and fair opportunity to explain or present their version of events in response to the complaint.

6.6.4 The Investigating Officer may hold additional meetings or consult with additional parties as necessary to reach a decision. The Investigating Officer will subsequently write to all parties, advising of the outcome of the investigation.

6.6.5 It is expected that the formal stage of this procedure will then be completed.

6.7 Outcomes

6.7.1 In all cases the Investigating Officer will make a judgement as to whether bullying and /or harassment has occurred and if so whether the behaviour in question was intended to cause harassment or whether the Responding Party could reasonably be expected to know that the behaviour would cause harassment. Having reached this decision, the outcome of this investigation may be:

- Complaint not founded – in such an instance the case would be dismissed and no further action taken.
- Complaint founded – if this is the case, the Investigating Officer will propose further action.

6.7.2 Where the Investigating Officer considers the misconduct is of so serious a nature that the penalty of expulsion from the University should be considered, the Investigating Officer may refer the matter to Senate Discipline Committee as a Category 2 offence as outlined in the Non-Academic Misconduct Disciplinary Procedure.

6.7.3 If the Investigating Officer considers the offence to be a Category 1 offence as outlined in the Non- Academic Misconduct Disciplinary Procedure then the Investigating Officer will consult with the Student Conduct Office and they may impose an appropriate sanction (see Non-Academic Misconduct Disciplinary Procedure section 6).

6.7.4 If Responding Parties fail to comply with the sanctions imposed by the Investigating Officer within the time specified they may be considered to be in breach of the ruling and the Investigating Officer may refer the matter to the Senate Discipline Committee as an allegation of a Category 2 offence.

7. Staff

7.1 Where the report is against a member of staff, then the case will be referred to the

[procedure for students to complain about the behaviour of members of staff.](#)

8. Review Request

8.1 If either the Reporting Party and/or the Responding Party are dissatisfied with the outcome of the investigation, or either believes the matter has not been handled fairly or properly in accordance with the Policy, they will be given the opportunity to request a review.

8.2 A review request must be made in writing to the Student Conduct Office within 10 working days of receipt of the outcome.

8.3 The Party making the request will be asked to state the grounds of the review request, and the right to review will only be granted if there is evidence of the following:

- a) Procedural irregularity.
- b) Evidence of further material circumstances which could not reasonably have been expected to have been submitted for consideration at the time of the investigation.
- c) The sanction imposed was disproportionate to the offence.

8.4 The Student Conduct Office will identify a senior officer, independent of the case to undertake the review. The case will be reviewed on the basis of the documentation provided by the Reporting Party and that held by the original Investigating Officer. The Reviewer may decide to seek further information if necessary.

8.5 The Reviewer may then decide to take action as follows:

- a) Uphold the original decision.
- b) Refer the case back to the Investigator to reinvestigate in light of new evidence or in a procedurally correct manner. This may involve the reallocation of the case to an Investigator who had no prior involvement in the case.

8.6 The review requester will be informed of the outcome of the review request within 28 days of receipt. The decision of the review request is final.

8.7 Once all internal processes have been exhausted, a student may make a complaint to the Office of the Independent Adjudicator for Higher Education (OIA) if the student remain dissatisfied with the University's decision. Further information is

available on the OIA website (www.oiahe.org.uk).

Owner: Student Conduct Office

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Approved by Council

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Approved by Senate

Contact for further information: Student Conduct Office
(student.cases@durham.ac.uk)

1 www.acas.org.uk/if-youre-treated-unfairly-at-work/being-bullied

2 www.legislation.gov.uk/ukpga/1997/40/contents

3 www.legislation.gov.uk/ukpga/2010/15/contents