

## **Procedure for Handling Cases of Student Harassment and Sexual Misconduct**

### **1. Glossary**

1.1 In this procedure the following terms shall have the meanings set out below:

Code of Conduct	The Code of Conduct for Students in respect of Harassment and Sexual Misconduct as set out in Appendix 1
Complainant	Student who has made a complaint under this procedure
Working Day	Any day except weekends, public holidays, and any other day when the University Offices are closed
OSCCA	The Office of Student Conduct, Complaints and Appeals
Panel	The Harassment and Sexual Misconduct Panel (see paragraph 6.3.1)
Respondent	Student about whom a complaint has been made under this procedure
Student	Person pursuing a course of study leading to the award of a degree, diploma or certificate of the University

### **2. Scope of procedure**

- 2.1. This procedure applies where a Student wishes to complain that the behaviour of another Student contravenes the Code of Conduct and constitutes an offence against the discipline of the University.
- 2.2. A complaint under this procedure may be brought by or against two or more Students where the complaint is about harassment or sexual misconduct arising from the same event(s). In such cases references in this procedure to the 'Complainant' or the 'Respondent' shall be construed as appropriate as referring to more than one person.
- 2.3. A Complainant may choose whether to raise a complaint under this procedure or under an equivalent College procedure, if applicable. However, it is the expectation of the Colleges and the University that this procedure will normally be used where:
- the complaint relates to sexual misconduct; or
  - the complaint relates to conduct occurring in the context of University societies or sports clubs; or
  - the complaint is brought against Students at more than two Colleges.
- 2.4. A complaint of harassment or sexual misconduct may be brought under this procedure whether or not it has been reported to the police (but see paragraph 3.6).
- 2.5. A complaint cannot be brought under this procedure where the Complainant has previously made a complaint about the same event(s) which has been dealt with under the University's Student Complaints Procedure or a College complaints procedure.
- 2.6. The General Board shall approve and keep under review explanatory notes, to be read in conjunction with this procedure. Those notes shall include a policy on the use of personal information under this procedure.

### **3. General principles**

- 3.1. Any reference in this procedure to a University officer or other named role includes a deputy appointed by that officer or role-holder to exercise the functions assigned to that officer under this procedure.
- 3.2. The University will act reasonably in considering complaints under this procedure, having regard to the individual circumstances of the case. Every effort will be made to ensure that all parties are treated with fairness and dignity.
- 3.3. The time limits set out in this procedure may be varied by the Head of OSCCA for good reason, after consultation with the Complainant and the Respondent as appropriate.

- 3.4. A written decision issued in accordance with this procedure shall also include the reasons for that decision.
- 3.5. The Head of OSCCA may suspend the consideration of a complaint at any stage of this procedure and/or refer the matter for consideration under another procedure, after consultation with the Complainant and the Respondent as appropriate.
- 3.6. Where the events which are the subject of a complaint under this procedure have been reported to the police, the Head of OSCCA will normally suspend the procedure pending the outcome of any police investigation and/or criminal proceedings.
- 3.7. If the Head of OSCCA considers that precautionary action is necessary to protect any person or to enable a full and proper investigation of the complaint to be carried out, the Head of OSCCA may refer the matter to the Academic Secretary with a view to the Academic Secretary exercising the discretion under Special Ordinance D (v): Precautionary Action.
- 3.8. Where, at any point during this procedure, the Complainant and Respondent have agreed to seek alternative resolution of the complaint under paragraph 5 but have been unable to reach an agreed outcome, the Head of OSCCA will consider whether further action should be taken under this procedure and, if so, at what stage.
- 3.9. The Complainant may withdraw a complaint at any time during this procedure, by notifying the Head of OSCCA in writing. Where a complaint is withdrawn no further action will be taken under this procedure, but the Head of OSCCA may refer the matter for consideration under another University procedure.
- 3.10. None of the members of any body constituted under this procedure will have any previous knowledge of the case or any material connection with either the Complainant or the Respondent. The holders of the offices to which this procedure refers shall appoint standing deputies to act on their behalf in the event of any conflict of interest.

#### **4. Support and guidance**

- 4.1. The Head of OSCCA will provide advice at the outset to help both Complainants and Respondents to understand this procedure.
- 4.2. Complainants and Respondents are entitled to be accompanied by a supporter at any meeting held under this procedure. A supporter may be a tutor, student representative, or a friend. Complainants and Respondents are also entitled to be accompanied by a legal representative at such meetings.

#### **5. Alternative resolution**

- 5.1. Alternative resolution may be suitable for dealing with some cases that are brought under this procedure, and Colleges play a key role in supporting such processes. Wherever appropriate, Complainants are encouraged to seek alternative resolution to their concerns before bringing a formal complaint under this procedure.
- 5.2. Alternative resolution may not be appropriate for some complaints of harassment or sexual misconduct because of the seriousness of the allegations, or because the relationship between the parties has broken down. In such cases the complaint will be considered in accordance with the formal procedure (paragraph 6).

#### **6. Formal procedure**

##### *Raising a complaint with OSCCA*

- 6.1.1. A Student who wishes to make a complaint under this procedure must do so in writing. The Complainant should set out details of the complaint together with details of any attempts at alternative resolution, if appropriate.
- 6.1.2. The complaint should be addressed to the Head of OSCCA.
- 6.1.3. A complaint must be made within three months of the occurrence of the events which are the subject of the complaint (but see paragraph 3.3).

- 6.1.4. On receipt the complaint will be considered initially by a group comprising the Head of OSCCA, the Pro-Vice-Chancellor (Education), and the Secretary of the Senior Tutors' Committee. The convenor of the group will be the Head of OSCCA. The group will determine (by a majority decision) whether to:
- a) refer the complaint for investigation under paragraph 6.2 of this procedure;
  - b) dismiss the complaint because it is considered to be without merit, or vexatious, frivolous, or malicious;
  - c) reject the complaint because it does not fall within the scope of this procedure;
  - d) decline to refer the complaint for investigation under this procedure and recommend to the Complainant that the complaint is raised under a College procedure;
  - e) decline to refer the complaint for investigation under this procedure for other reasons;
  - f) recommend to the Complainant that alternative resolution of the complaint is sought.
- 6.1.5. The Head of OSCCA will notify the Complainant in writing of the decision of the group within ten Working Days of receipt of the written complaint.
- 6.1.6. In the event that a decision of the group falls within paragraph 6.1.4(b)–(f) and the Complainant is unhappy with that decision, the Complainant shall have the right to request a review of that decision in accordance with paragraph 6.6. The review will be considered by a Panel appointed in accordance with paragraph 6.3.1.
- 6.2. *Investigation*
- 6.2.1. Where a complaint is referred for investigation, the Head of OSCCA will appoint an investigator to carry out an investigation of the case. The role of the investigator is to prepare a report, which sets out the undisputed facts of the case and any points of difference and makes recommendations based on the evidence and policies in place.
- 6.2.2. The investigator shall conduct the investigation as the investigator thinks fit, within the context of the general principles set out in paragraph 3 and the explanatory notes issued by the General Board under paragraph 2.6. The investigator may interview (with their consent) the Complainant and the Respondent and any other person involved in the events which are the subject of the complaint and consider or request any other evidence which appears to the investigator to be relevant.
- 6.2.3. When or before inviting the Respondent to interview, the investigator must:
- a) give the Respondent (and, if relevant, his or her representative) sufficient information to enable the Respondent to understand the nature of the alleged misconduct, including for example a broad summary of the evidence and the number and identities of those involved, together with the place where, and time when, the misconduct is alleged to have been carried out;
  - b) notify the Respondent that he or she does not have to say anything and that no adverse inferences may be drawn from the Respondent's failure to attend for interview or otherwise participate in the investigation;
  - c) warn the Respondent that the University may be required to provide as evidence in any subsequent criminal investigation or proceedings in a court of law information regarding the complaint, including any admission made in the course of this procedure (and/or any made during mediation or any subsequent disciplinary proceedings) and that any admission made in the course of this procedure may also be used as evidence in University disciplinary proceedings, save that the University will abide by the confidentiality of any mediation, and anything which is said in the course of mediation will not be used in evidence in any University disciplinary proceedings;
  - d) remind the Respondent that he or she is entitled to seek independent legal advice, and provide sufficient notice of the interview as the Respondent may reasonably require to secure such advice if he or she wishes.
- 6.2.4. Where the Respondent declines to cooperate with an investigation, the investigator may still continue with the investigation in the absence of the Respondent's cooperation. The investigator will aim to complete the investigation within twenty Working Days of the complaint being referred

for investigation, but some cases may require longer, in which case the investigator will keep the Complainant and the Respondent informed about progress.

6.2.5. On receipt of the investigator's report, the Head of OSCCA may:

- a) refer the complaint for consideration by a Harassment and Sexual Assault Panel under paragraph 6.3; or
- b) decide to deal with the complaint under paragraph 6.3 without reference to the Panel.

6.3. *Consideration of the case*

6.3.1. If the case is referred to a Panel, the Registry will appoint three members of the University, one of whom shall be a Student, to serve.

6.3.2. The Head of OSCCA or the Panel shall consider the complaint and the report prepared by the investigator. The Head of OSCCA or the Panel may meet (with their consent) the Complainant and/or the Respondent and any other person involved in the events which are the subject of the complaint.

6.3.3. Having considered the complaint and the report, and following any meeting(s) under paragraph 6.3.2, the Head of OSCCA or the Panel (by a majority decision) may:

- a) refer the complaint for consideration under the University's disciplinary procedures (see paragraph 6.5);
- b) dismiss the complaint because it is considered to be without merit, or vexatious, frivolous, or malicious;
- c) decide that no further action should be taken under this procedure;
- d) recommend to the Complainant and the Respondent that they should seek alternative resolution of the complaint;
- e) propose one or more of the resolutions set out in paragraph 6.4.1.

6.3.4. The Complainant and the Respondent will be notified in writing of the decision of the Head of OSCCA or the Panel under paragraph 6.3.3 within twenty Working Days.

6.3.5. In the event that a decision of the Head of OSCCA or the Panel falls within paragraph 6.3.3(b)–(e) and the Complainant is unhappy with that decision, the Complainant shall have the right to request a review of that decision in accordance with paragraph 6.6. The review will be considered by a committee of three persons appointed by the Registry, one as Chair of the committee.

6.4. *Resolutions*

6.4.1. The Head of OSCCA or the Panel may propose a resolution to the complaint, which may include (but are not limited to) the following:

- a) that the Respondent will agree to abide by a conduct agreement issued by the Head of OSCCA, a record of which will be retained by the University and which may be taken into account if a further complaint is made against the Respondent under this procedure;
- b) with the prior approval of the relevant body, that the Respondent will take a period of intermission from study;
- c) that the Respondent will attend behaviour awareness training or workshops.

6.4.2. Both the Complainant and the Respondent must agree to the proposed resolution of the complaint. The Head of OSCCA will facilitate the process of reaching agreement between the Complainant and the Respondent and will issue written confirmation of any agreed resolution(s) to the Complainant and the Respondent.

6.4.3. If attempts at reaching an agreed resolution are unsuccessful the Head of OSCCA shall refer the complaint for consideration under the University's disciplinary procedures in accordance with paragraph 6.5.

6.4.4. If there are grounds to believe that the Respondent has failed to comply with the terms of an agreed resolution, the Head of OSCCA shall determine whether the complaint should be referred

for consideration under the University's disciplinary procedures in accordance with paragraph 6.5.

#### 6.5. *Disciplinary proceedings*

- 6.5.1. Where the Head of OSCCA or the Panel refers a complaint for consideration under the University's disciplinary procedures, it will be referred to the University Advocate in accordance with Special Ordinance D (iv) or to any other relevant officer. The University Advocate or other relevant officer will be provided with a copy of all relevant material, including the report of the investigator and a copy of the decision of the Head of OSCCA or the Panel.
- 6.5.2. The University Advocate or other relevant officer may decide to:
  - a) invoke disciplinary proceedings against the Respondent;
  - b) refer the case back to the Head of OSCCA for further attempts at an agreed resolution;
  - c) take no further action.
- 6.5.3. The Complainant and the Respondent will be notified in writing of the decision of the University Advocate or other relevant officer within twenty Working Days.
- 6.5.4. Where the University Advocate or other relevant officer decides to take no further action, the Complainant shall have the right to request a review of that decision in accordance with paragraph 6.6. The review will be considered by a committee of three persons appointed by the Registry, one as Chair of the committee.
- 6.5.5. Where disciplinary proceedings are brought against the Respondent, a copy of all relevant material, including the report of the investigator and a copy of the decision of the Head of OSCCA or the Panel will be made available to the relevant disciplinary body.

#### 6.6. *Review*

- 6.6.1. In accordance with paragraphs 6.1.6, 6.3.5, or 6.5.4 of this procedure, the Complainant may seek the review of a decision made under this procedure. The review will be carried out by the body specified in the relevant paragraph.
- 6.6.2. A request for a review shall be made in writing and sent to the Registry within 15 Working Days of written notification of the decision (unless, for good reason, the Registry permits a longer period). The request for review shall specify the grounds for review which may be only one or more of the following:
  - a) that there was material procedural irregularity in the consideration of the Complainant's case;
  - b) that there was bias or prejudice on the part of the decision-maker;
  - c) that the decision reached was perverse in that it was one which no reasonable decision-maker could have reached on the available evidence;
  - d) that fresh material evidence is available, which was not available and/or not presented for good reason at the time of the original decision.
- 6.6.3. The request for a review should be accompanied by supporting documentation.
- 6.6.4. The reviewing body will consider the request for review and the documentation available to the original decision-maker. The reviewing body may, at its discretion, hold a hearing and regulate arrangements for the conduct of the hearing.
- 6.6.5. The reviewing body will issue an adjudication in writing as soon as possible, which shall normally be within twenty Working Days of the receipt of the request for a review or (if a hearing is held) within ten Working Days of the hearing. The reviewing body shall have power to confirm, quash, or amend the original decision or refer it back to the decision-maker for further consideration.

### 7. **Reporting**

- 7.1. An annual report of complaints considered under this procedure will be made to the Council, the General Board, and the Colleges, in which references to individual cases will be made anonymously.
- 7.2. The Head of OSCCA will be responsible for the regular review of this procedure.