



Trinity College Dublin
Coláiste na Tríonóide, Baile Átha Cliath
The University of Dublin

Procedure No: 64

Revision: 1

Date approved: 15 November 2023

Sexual Misconduct Policy



Table of Contents

1.	Purpose of this Policy	6
1.1	The Environment We Want to Create	6
1.2	Reading This Policy	6
1.3	Key Principles & Policy Overview	7
2.	Scope	10
2.1	Who Does This Policy Apply To	10
2.2	Where and in What Circumstances Does the Policy Apply	11
2.3	To What Behaviour Does It Apply	11
3.1	Definition of Sexual Misconduct	12
3.2	Definition of Sexual Harassment	13
3.3	Determining Harassment	14
3.4	Discrimination	15
4.	Policy Breaches	15
5	What to Do If You Have Concerns or Complaints	16
6	Raising A Concern or A Complaint	17
6.1	Concerns or complaints regarding a student at Trinity College	17
6.2	Concerns or complaints regarding a member of Trinity College staff	19
6.3	Steps in Formal Resolution (Staff and Students)	21
6.4	Concerns or Complaints Regarding an External Party	25
7	Malicious/Vexatious Complaints	25
8.	Records	26
8.1	Transparency through Monitoring and Reporting	26
8.2	Data Protection	26
		2



9.	Maintaining A Safe Environment	27
9.1	Criminal Offence or Threat to Safety	27
9.2	Providing a Safe Place to Work and Study	28
9.3	The Children's First Act 2015 and Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012	29
10.	Policy Ownership	29
Appendix 1	Roles and Responsibilities	30
1.1	Governing Authority (Board)	30
1.2	Executive Officers Group (EOG)	30
1.3	Consent Framework Implementation Oversight Group	31
1.4	Dignity Respect & Consent Response (DR&C) Manager	33
1.5	DR&C Support Advisors	34
1.6	Individuals	35
1.7	Office of Junior Dean (for students)	36
1.8	Human Resources (for employees)	37
1.9	Equality, Diversity & Inclusion (EDI) Office	37
1.10	Role of the Screening Panel	38
1.11	People Managers	38
1.12	Tutor/Assistant Warden/Assistant Dean:	40
1.13	Contact Person:	40
1.14	Trade Unions	41
1.15	Students Unions	41
Appendix 2	Definitions	42
2.1	What Is a Respectful Positive Culture	42



2.2	Definition of Harassment	43
2.3	Definition of Consent	43
2.4	Definition of Disclosure	44
2.5	Reporting Person	44
2.6	Person Being Reported	44
2.7	Complainant	45
2.8	Concern	45
2.9	Complaint	45
2.10	Respondent	45
2.11	Discrimination	45
2.12	Vulnerable Person	46
Appendix 3	Maintaining a Safe Environment	47
3.1	Victimisation	47
3.2	Penalisation	47
Appendix 4	More Information on The Role of The Screening Panel	48
4.1	The Screening Panel	48
4.2	The Role of the Screening Panel	48
4.3	The Screening Panel Decision	49
4.4	What happens next?	50
Appendix 5	More Information on the DR&C Support Advisors	52
Appendix 6	Mediation	54
Appendix 7	Facilitated Conversation	57
Appendix 8	Transparency	58
8.1	Confidentiality (see Data Privacy statement)	59



Appendix 9 Inputs Into Developing This Policy

60



1. Purpose of this Policy

The purpose of this policy is to set out the University's key principles, approach and procedures on the subject of Sexual Misconduct in the University community.

It aims to maintain a positive, safe environment for staff, students and other community members which is free from any form of negative treatment, including sexual harassment or sexual assault.

1.1 The Environment We Want to Create

- All members of our community are expected to be committed to, and behave in a way, which maintains a positive culture for work and study for all.
- The environment should be free from all forms of sexual misconduct and or/sexual harassment. Creating a positive and safe culture is everyone's responsibility.
- Within University communities where work and study, social interactions, and residential life all occur within one or a number of confined settings, we need to be vigilant of potential risks, and be aware of the impacts of sexual misconduct.
- Our vision for across the University's campuses is for a safe and supportive student experience, and a safe and supportive workplace, free of instances of sexual misconduct and/or sexual harassment.

1.2 Reading This Policy

To assist you in reading this policy, we have put in a section outlining the key principles of the policy. It is recommended that this policy should be read in conjunction with other relevant University policies and procedures as referenced in this document.



1.3 Key Principles & Policy Overview

Principles	
University Commitment	The University is committed to promoting a positive environment where everyone is treated respectfully, where work and study is free from any form of negative treatment, including sexual harassment, sexual assault or any other form of harassment.
Collective Responsibility	Everyone within the University community has a responsibility to behave in a respectful way by respecting the dignity of others and participate in creating a positive culture for work and study.
Roles and Responsibilities	We each have a responsibility to be clear on our roles and responsibilities, as staff, students, managers, suppliers, consultants, contractors, Club/Society members.
We will not Tolerate	Any form of sexual harassment or sexual violence or sexual misconduct is unacceptable, any breaches will not be tolerated.
Disclosure encouraged	We are committed to the development of a culture where disclosure/reporting of any instance of sexual misconduct is encouraged, and we will ensure transparency in how the University deals with such matters. The University has a duty to act if it becomes aware of harassment or sexual harassment without a complaint being



	made (for example by way of exit interviews or anonymous reports).
Policy Implementation	
Clarity on who is covered	All Staff, Students, Suppliers, Consultants, Contractors, and all those who engage with the University in any capacity are all covered by and required to adhere to this policy.
Information and Training	We will promote awareness and understanding of sexual consent, through training and support for staff and students.
Professional Support	We will ensure an appropriate and accessible suite of supports is available to anyone who experiences sexual misconduct. This also applies to respondents to complaints of sexual misconduct.
Policy development and support	This policy has been developed with input from across the University community. Designated senior champions will give an independent voice advocating for a diverse workplace culture free of sexual misconduct and harassment where all employees feel respected.
Policy breaches	Breaches of the policy will be addressed through the appropriate (student or staff) disciplinary procedures and serious breaches of the policy will be considered as gross misconduct under disciplinary procedures.
Gather appropriate data	We will gather and maintain appropriate statistical data, which we will proactively monitor to ensure that we are achieving our commitments.



Procedure Overview	
Which route to take	The policy provides clarity on the appropriate routes to solution.
Informal resolution	If possible and appropriate, consider if a reported complaint/concern could be resolved informally.
Formal Process	If an informal process is not successful or appropriate, formal proceedings may then be followed in the form of an investigation.
Thorough Investigation	The investigation process is thorough, confidential and impartial. Formal complaints or concerns of breach of the terms of this policy may be investigated by experts selected from a panel appointed by the University.
Confidentiality	Confidentiality will be maintained throughout any process/investigation to the greatest extent consistent with the requirements of a fair investigation and legal requirements.
Key Points	
Time is important	Timelines are important – Complaints and concerns should be made as early as possible after the incident occurs.
No limit on statutory rights	The policy does not attempt to limit any person's statutory rights in respect of reporting to An Garda Síochána (Ireland's National Police) or under the Employment Equality Acts, 1998 to 2011 and the Equal Status Acts, 2000 to 2012 to submit a complaint to the Workplace Relations Commission (WRC).



	The statutory time limit is six months from the last act of discrimination for the WRC. It is important for employees to note that this time limit will not be paused pending the outcome of a workplace investigation, it shall continue to run.
Legislative requirements	This policy is underpinned by relevant Codes of Practice ¹ and legislative provisions and the Safety, Health and Welfare at Work Act 2005.

2. Scope

2.1 Who Does This Policy Apply To

This policy applies to all members of our community, those supplying services to our community, or availing of services from our community. This includes, but is not limited to:

- All Staff.
- All Students.
- Guest Lecturers.
- Alumni.
- Any person on occasional/temporary/sessional work.
- Members and employees of Clubs/Societies who are not Trinity students or employees.
- Contractors and Sub-contractors.
- Consultants.
- Vendors and suppliers.
- All those, including retired staff who engage with the University and its associated bodies in any capacity.

¹ Irish Human Rights and Equality Commission Code of Practice on Sexual Harassment and Harassment at Work. [Code of Practice on Sexual Harassment and Harassment at Work \(ihrec.ie\)](https://www.ihrec.ie/code-of-practice-on-sexual-harassment-and-harassment-at-work/)



2.2 Where and in What Circumstances Does the Policy Apply

This policy applies to all areas of the University's operations and programmes. It applies to conduct which takes place:

Our Campus/another Campus/other Venue

On Trinity College's campus or at any other University or other place where our staff or students are representing the University; or are engaged in a University connected activity, inclusive of on-campus residences.

Events

At events such as social functions, conferences, sporting events, field trips or work assignments which are related to the University, to a person's work/study, or at which a person is representing the University, or any University-connected activity.

Placements

Where Trinity students or staff are on placement, internship or secondment in other organisations, they need to be aware of and adhere to the Dignity and Respect policy and other related and relevant documentation, issued by these organisations, including a Sexual Misconduct policy where one exists. Where a complaint is made against a Trinity student or staff member whilst they are on placement or secondment, our students or staff may be subject to the policies of these organisations as well as this University Policy.

2.3 To What Behaviour Does It Apply

The policy applies to all forms of interaction and communication between people, directly or indirectly, including the spoken word, digital communications, photographs, images, written, and other non-verbal communication, including via sign language, through gestures and in posters.



3. Definitions

3.1 Definition of Sexual Misconduct

Sexual Misconduct covers a broad range of inappropriate and unwanted behaviours of a sexual nature including sexual harassment and sexual violence. Sexual misconduct can be committed by a person of any gender and it can occur between people of the same or different genders. It is often gender targeted and perpetrated to demean, diminish and intimidate. Sexual misconduct may occur between strangers or acquaintances, including people involved, or formerly involved, in an intimate or sexual relationship. The following are examples of behaviours associated with sexual misconduct (non-exhaustive list):

- Predicating inclusion or access to work or study opportunities or other advantages on participation in interactions of a sexual nature.
- Grooming, psychological abuse and coercive conduct.
- Controlling, coercive and threatening behaviour including all or some forms of abuse (emotional, physical, financial, sexual including threats).
- Making remarks of a sexual nature to someone or about someone.
- Sharing private sexual materials of another person.
- Any behaviour of a sexual nature that is committed without consent.
- Kissing without consent.
- Touching without consent.
- Non-consensual taking or sharing of intimate images.
- Sexual harassment/sexual misconduct on social media.
- Verbal or physical harassment in a sexual context.
- Inappropriately showing sexual organs or body images to another person.
- Creating, accessing, viewing or distributing pornographic material online or offline.



- Stalking behaviours whether online or offline.
- A promise of resources, access to education, opportunities and career progression in exchange for sexual access.
- All forms of sexual violence including attempting to engage in sexual intercourse or engaging in a sexual act without consent.
- Misuse of power, by academic or professional staff towards students or more junior levels of employee; or misuse of power in a relationship between students or employees who have unequal institutional power.
- Any form of threatening behaviour or intimidation of a sexual nature.

This definition of Sexual Misconduct also embraces Sexual Harassment (as defined below).

3.2 Definition of Sexual Harassment

Sexual harassment is defined as any form of unwanted verbal, non-verbal or physical conduct of a sexual nature which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. Sexual Harassment is defined under the Employment Equality Acts 1998 – 2015. The following are examples of unwanted behaviours associated with sexual harassment: (non-exhaustive list)

- Physical contact such as unnecessary touching, patting or pinching or brushing against another body; assault, coercive sexual intercourse or rape.
- Sexual advances, propositions or pressure for sexual activity.
- Persisting in unwelcome attempts to form or continue a relationship from which the consent of one party has not been given or has been withdrawn.
- Unwanted or offensive flirtations, suggestive remarks, innuendos or lewd comments, unwelcome comments regarding a person's dress or appearance.



- The display of pornographic or sexually suggestive pictures, objects, written materials including posters, emails, text-messages, social media messaging or faxes.
- Leering, whistling or making sexually suggestive gestures.
- Conduct that denigrates or ridicules or is intimidatory or physically abusive of a person because of their sex.

3.3 Determining Harassment

The Employment Equality Acts 1998 - 2015 do not prohibit all relations of a sexual or social nature at work. To constitute harassment/sexual harassment the behaviour complained of must firstly be unwelcome. It is up to the recipient of any such behaviour to decide:

- (i) what behaviour is unwelcome, irrespective of the attitude of others to the matter,
and
- (ii) from whom such behaviour is welcome or unwelcome, irrespective of the attitudes of others to the matter.

The fact that an individual has previously agreed to the behaviour does not stop them from deciding that it has become unwelcome. It is the unwanted nature of the conduct which distinguishes harassment/sexual harassment from behaviour which is welcome and mutual.

In addition, to constitute harassment/sexual harassment under the Employment Equality Acts 1998 - 2015, the behaviour must have the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.



3.4 Discrimination

The Employment Equality Acts 1998 – 2015 defines discrimination as treating one person in a less favourable way than another person based on any of the equality grounds as set out under harassment in Appendix 2. These include recruitment and promotion; equal pay; working conditions; training or experience; dismissal and harassment including sexual harassment. Claims of discrimination (other than harassment and sexual harassment) are managed under the Grievance Procedure for employees or Student Complaints (or other) for students.

A full list of definitions can be found at **Appendix 2**.

4. Policy Breaches

Breaches of the policy may constitute grounds for invoking disciplinary procedures which may result in sanction up to and including dismissal or expulsion. This policy does not affect any person's statutory rights under the Employment Equality Acts and the Equal Status Acts.

Breaches of the policy will be addressed through the appropriate (student or staff) disciplinary procedures and serious breaches of the policy will be considered as gross misconduct under disciplinary procedures.

It is not the role of the University to investigate the crimes (as defined in legislation) of sexual harassment, sexual assault or rape. For a person to be prosecuted, the matter must be reported to the Gardai where thereafter a prosecution may be pursued by the Director of Public Prosecution against the alleged offender.



5 What to Do If You Have Concerns or Complaints

Read through the full policy in advance of proceeding with further steps.

If you have a concern about how you were treated:

- Seek appropriate guidance or assistance. This policy appendix outlines the supports available.
- If a victim of sexual assault, further supports available are [here](#).
- If appropriate, approach person who is causing concern and /or offense and ask them to stop.
- Recognise they may be unaware that their behaviour is causing concern and/or offense.

If someone raises a concern with you, about you:

- Be open to the approach, understanding how difficult it can be for a person to speak up to raise the issue.
- If you do not agree with the person, or accept that any change is necessary, consider how you, or you both, might best seek support in resolving the issue.
- Supports are available to you and are outlined in the policy appendix.

If you see something, you are concerned about:

- We all should be aware of the safety and welfare of colleagues/classmates, even if we are not in a formal position of responsibility.
- We should always respect the privacy of others, however, if a concern arises for the welfare of a colleague/ classmate, the matter should be raised with an appropriate person; the DR&C Support Advisors or the DR&C Manager.
- Where a disclosure or reporting of any instance of sexual misconduct is made, transparency is ensured via this policy as to how the College deals with such matters.
- This policy should not justify unwanted interference in the affairs of another.



6 Raising A Concern or A Complaint

When raising a complaint there are two available routes

- Informal.
- Formal.

Raising a concern, and/or making a disclosure does not constitute raising a complaint and may be addressed informally. However, after seeking support, you may decide to then submit a complaint and seek to have it progressed informally or formally.

At any stage of the formal process the complainant can seek to revert to the informal process. The process steps are outlined below.

6.1 Concerns or complaints regarding a student at Trinity College

Steps in Informal Resolution (Students)

Consider Informal Resolution	All options for informal resolution should be considered.
Informal Conversation	If and where appropriate and safe to do so, an informal conversation with the other party may help to resolve the matter. Bearing in mind that the behaviour may not have been intended, this can be the most expedient way to address the matter effectively.
Informal conversation, involving a University officer	If appropriate, the Assistant Warden, Assistant Junior Dean or Tutor of the person against whom the concern/complaint arises may be engaged to facilitate dialogue with both parties. This may involve facilitating the parties coming together to identify if there can be a shared understanding of a resolution to the issues.



	The Assistant Warden, Assistant Junior Dean or Tutor's role in this option is neutral and non-judgemental.
Facilitated Conversation	Facilitated conversation is an alternative method of resolving complaints and is an informal process seeking assistance from a third-party to facilitate dialogue between the parties. This may be another suitably skilled colleague, specialist or external support. The process is voluntary and both parties must be willing to take part and agree to this approach. More details at Appendix 7 .
Mediation	Mediation is an alternative method of resolving complaints and is an informal process through which a Mediator helps the parties in a dispute to talk about the issues between them, and if they wish, to reach an agreement which is acceptable to both sides. The process is voluntary and both parties must be willing to take part and agree to this approach. If the parties agree to this approach, the University will appoint a neutral and impartial Mediator to facilitate the process. Information on the mediation process is set out in Appendix 6 .
Proceed to Formal route	If such interventions are not suitable or are unsuccessful, a formal mechanism may be appropriate.



6.2 Concerns or complaints regarding a member of Trinity College staff

Informal resolution should be considered in all situations in the first instance.

Steps in Informal Resolution (Staff)

Consider Informal Resolution	All options for informal resolution should be considered.
Informal Conversation	If and where appropriate and safe to do so, an informal conversation with the other party may help to resolve the matter. Bearing in mind that the behaviour may not have been intended, this can be the most expedient way to address the matter effectively.
Informal conversation, involving a manager	If appropriate, the manager of the person against whom the concern/complaint arises may be engaged to facilitate dialogue with both parties. Bearing in mind that the behaviour may not have been intended, this can be the most expedient way to address the matter effectively. This may involve facilitating the parties coming together to identify if there can be a shared understanding of a resolution to the issues. The manager's role in this option is neutral and non-judgemental.
Facilitated Conversation	Facilitated conversation is an alternative method of resolving complaints and is an informal process seeking assistance from a third-party to facilitate dialogue between the parties. This may be another suitably skilled colleague, specialist or external support.



	The process is voluntary and both parties must be willing to take part and agree to this approach. More details at Appendix 7.
Mediation	Mediation is an alternative method of resolving complaints and is an informal process through which a Mediator helps the parties in a dispute to talk about the issues between them, and if they wish, to reach an agreement which is acceptable to both sides. The process is voluntary and both parties must be willing to take part and agree to this approach. If the parties agree to this approach, the University will appoint a neutral and impartial Mediator to facilitate the process. Information on the mediation process is set out in Appendix 6.
Proceed to Formal route	If such interventions are not suitable or are unsuccessful, a formal mechanism may be appropriate.



6.3 Steps in Formal Resolution (Staff and Students)

A complaint is considered formal once the DR&C form has been completed and the form is submitted to DR&C Manager.

Complete form	The complaint must be made on DR&C Complaint form. The complaint should name the person against whom the complaint is raised and the details of the alleged act(s). The form can be found here.
Preliminary Screening	Preliminary screening is carried out by a Screening Panel who decide on an evidentiary basis, whether the alleged behaviour falls within the definition of sexual misconduct as defined in the policy. If it is found that the behaviour falls within the definition of sexual misconduct, the Screening Panel may: (i) recommend if informal intervention should be considered, or (ii) recommend that the complaint proceed to a formal investigation. If it is found that the behaviour does not fall within the definition of sexual misconduct, this will be conveyed to the complainant with explanation and options for further assistance. Full Screening Panel Process Appendix 4.
Investigation	The services of an independent investigator may be engaged. It may at times be appropriate to appoint co-investigators to a complaint. Terms of reference are provided to all parties in advance of commencement of investigation.



	Investigations will be handled with fairness, sensitivity and with due respect for the rights of both the complainant and the respondent. Indicative timelines will be set out in terms of reference for completion of the various stages of the procedure to ensure the overall timescale is adhered to (as far as is reasonably practicable). Parties will be given reasonable time to consider the documentation and will have an opportunity to respond.
Bounds of confidentiality	All persons connected with the matter must maintain confidentiality. This includes refraining from discussing any aspect of the process, or its existence, with any person, with the exception of their chosen representative /advisor or support.² Breaches of confidentiality by any party are subject to the University's disciplinary procedures. There should be no communication in relation to the complaint between the parties concerned, directly or indirectly, outside of the investigation.
Representation	Anyone involved in investigation meetings may be accompanied by a representative³ or colleague at any/all stages of the investigation. Relevant witnesses may also be interviewed.
Process and Records of meeting	The parties concerned will be interviewed separately and detailed statements taken. A record of all meetings will be kept by the investigator for the duration of the process. A neutral third party may be present to take notes.

² This does not preclude talking to medical/counselling professionals from whom services may be sought.

³ Staff may engage trade union representatives; Students may engage student union representatives.



	The respondent will be given details of the allegations being made against them, together with any evidence provided to the investigator and, given the opportunity to consider documentation and an opportunity to respond. Relevant parties will have the right to state their case and reply to the issue at hand. Counter allegations will be treated as a separate complaint.
Investigation Outcome	If following investigation, it is determined that there is a case to answer, the investigation report will recommend whether disciplinary procedures should be invoked. This may result in disciplinary action being taken under the University's disciplinary policies. The complainant will be advised of the outcome of the investigation and if there is a case to be answered or otherwise. They will not be informed of any disciplinary measures that may arise from the case.
Appeal	Either party may appeal the outcome of the investigation. This must be done in writing and within 14 calendar days of the issuing of the initial decision and clearly set out the grounds for the appeal. The other party will be advised of the appeal. The Screening Panel will identify an appropriate party to conduct the appeal.
Post investigation	Management/Heads/Junior Dean will also take any appropriate actions, including preventative measures, and/or support for rebuilding relationships conducive to a professional and collegial environment.



Mediation	If during the investigation, the parties indicate that they believe the issue could be resolved through mediation, the formal process may be paused whilst mediation is explored. The process is voluntary and both parties must be willing to take part and agree to this approach. Information on the mediation process is set out in Appendix 7.
Precautionary measures	In appropriate circumstances, interim arrangements can be made to facilitate all concerned parties, where possible, pending the outcome of the investigation. Students: In appropriate circumstances⁴, a student against whom allegations are made may be suspended from attending campus/class participation, in order to facilitate a thorough investigation. Staff: A staff member against whom allegations are made may be placed off duty on full pay, in order to facilitate a thorough investigation. In some circumstances, other precautionary measures may be put in place. A precautionary measure is not a penalty or a sanction and does not indicate that it has been concluded that the person concerned has committed a breach of discipline. Precautionary measures may potentially be kept in place following an intervention depending on the circumstances.

⁴ In accordance with relevant provisions and procedures set out in the [Statutes](#) of the College



6.4 Concerns or Complaints Regarding an External Party

Concerns or complaints against External parties (those who are neither staff or students of Trinity College) will follow the formal route outlined above.

If, following investigation into a complaint against a non-College person(s) it is determined that there is a case to answer, the investigation report will recommend appropriate action to be taken against either the respondent or their employer.

7 Malicious/Vexatious Complaints

We adopt the Code of Practice on Bullying 2021 definition of a malicious complaint as an allegation that is made without foundation, and with malicious intent, where a person knowingly or without regard to whether it is true or not, accuses another person of alleged sexual misconduct against them. This could also apply to where one person maliciously complains of someone allegedly engaged in sexual misconduct with a third party, without fully exploring the veracity of the claim.

A malicious complaint has the power to disrupt another person's life to a significant extent and the potential damage should not be underestimated. Being accused of sexual misconduct can have a serious impact on any person and reduce their reputation in the eyes of others, even if later shown to not have been proven. Those making complaints - and those involved in early assessment of the circumstances of a complaint should always be mindful of the context and situational aspects of the event and accept the different perspectives and points of view different people bring to the same event.

Making a malicious complaint, if proven, can have serious implications for the employment / studies of the person making such a complaint and this includes disciplinary action, where established.



8. Records

8.1 Transparency through Monitoring and Reporting

We are committed to being transparent in relation to issues of sexual misconduct in the University whilst still protecting anonymity. Data relating to complaints and reports of sexual misconduct will be used to inform the development of initiatives and activities designed to prevent such behaviour, including enhanced supports for those experiencing sexual misconduct and to maintain a safe and respectful environment for all.

Further details on transparency and confidentiality can be found at **Appendix 8**.

8.2 Data Protection

The University has published data privacy statements for employees and students which explain how personal data is processed by the University in compliance with data protection legislation and the University's [Data Protection Policy](#). Further information is available at www.tcd.ie/privacy and from the [Trinity College Data Protection Office](#). A specific privacy statement has been developed to support this policy which explains how the University will use personal data if one is a reporting person/complainant, person being reported/respondent or a witness in a case considered under the policy and procedure for handling cases of Sexual Misconduct. The Privacy Statement is located [here](#)



9. Maintaining A Safe Environment

9.1 Criminal Offence or Threat to Safety

Investigations by Gardai

Where an employee/student identifies a breach of this policy which they believe constitutes a criminal offence or an immediate threat to safety, they should report the matter to the Gardaí.

Individuals should also inform the University through their Head of School, line manager or the DR&C Support Adviser, so that appropriate steps can be taken, and support provided.

Employees or students can contact the Gardaí directly or through the Security

Superintendent in Security Control Base who has access to a contact point in Pearse Street Garda Station at any time, day or night. The Security Superintendent can be contacted on Extension (896) 1999.

In instances where a complaint is the subject of a criminal investigation by the Gardaí, the University may pause any investigation under this policy pending the outcome of the criminal investigation.

The University will only, in the most exceptional circumstances, and with the benefit of specific legal advice, report a complaint to the Gardaí contrary to the wishes of the reporting person/complainant. The circumstance in which a report by the University may be justified is if there is considered to be a clear and imminent risk to the life or safety of the reporting person/complainant or of third parties.

If the University does decide that it is necessary to report the allegation to the Gardaí, then the reasons for taking that action will be explained to the complainant so that they understand what is happening and they can be prepared if/when the Gardaí contact them.



If any individual has a court order against a Trinity community member, they should provide a copy of this to the DR&C Support Advisor. When the University is put on notice of a court order it will take all reasonable steps to facilitate compliance with the order where possible.

9.2 Providing a Safe Place to Work and Study

The Safety, Health, and Welfare at Work Act 2005⁵, (“the 2005 Act”) section 8 sets out the requirement for ‘Every employer shall ensure, so far as is reasonably practicable, the safety, health and welfare at work of their employees.’. It also applies to employees in relation to their duties under section 13 (1)(e) of the 2005 Act to ‘not engage in improper conduct or behaviour that is likely to endanger their own safety, health and welfare at work or that of any other person (including students)’.

As with any health and safety hazard identified in the workplace, the 2005 Act places a legal obligation on the employer to identify that hazard and ‘assess the risks presented by those hazards’. In the case of physical risks this is achieved by conducting a ‘Risk Assessment’. However, the risk to Health and Safety in the workplace posed by bullying, harassment and other bad behaviours is both more subtle and nuanced.

When such hazards are identified, the University is required to implement any controls or improvements which are identified by a risk assessment. The University will rely on this legislation to conduct the necessary health and safety assessment(s) in accordance with the Health and Safety Authority (HSA) protocols in order to address such behaviour.

More information on maintaining a safe environment including victimisation and penalisation can be found in **Appendix 3**.

⁵ [Safety, Health and Welfare at Work Act 2005 \(irishstatutebook.ie\)](http://irishstatutebook.ie)



9.3 The Children's First Act 2015 and Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012

The University is obliged to report any disclosures of child sexual abuse, assault, ill treatment, or neglect of children to Tusla under the reporting responsibilities of the Children First Act 2015, the Children First: National Guidance for the Protection and Welfare of Children 2017 and Addendum 2019, the University's Child Protection Policy and the principles of natural justice. Any person to whom such a report is made should contact the Trinity College Child Protection Officer. The University also has a reporting obligation under the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012. The Act creates a criminal offence of withholding information relating to the commission of a serious offence, including a sexual offence, against a person under 18 years or a vulnerable person.

More information on maintaining a safe environment including victimisation and penalisation can be found in **Appendix 3**.

10. Policy Ownership

This policy is owned by the Director of Human Resources.

The policy will be reviewed after three years in operation.

End Policy



Appendix 1 Roles and Responsibilities

As members of our community, we are all expected to work to develop and maintain a high degree of respect in our diverse community and to participate in creating a positive and safe environment. As with all policies and procedures, this document assigns responsibilities to a range of roles within the University, including senior management of the University. Failure to uphold the responsibilities assigned is taken very seriously and may lead to informal or formal action, including, in the case of students, under the Student Code and Student Discipline Procedure, and in the case of employees under the Disciplinary Procedures. Formal sanctions available for breach of University policies and procedures are graduated by reference to the seriousness of the breach, for students ranging between a written reprimand to permanent expulsion from the University in accordance with the Statutes⁶, and for employees at all levels ranging between a verbal warning to dismissal.

1.1 Governing Authority (Board)

- Support the pursuit of the development and implementation of leading policies/procedures that clearly represent the values of Trinity College.
- Amplify the value and importance of dignity and respect in the University and supporting strategy of the Governing Authority.
- Engage in relevant training in relation to sexual misconduct and more broadly, equality, diversity and inclusion.

1.2 Executive Officers Group (EOG)

The University Executive Officers Group are the senior leadership team of the University led by the Provost. They have overall formal responsibility for the operation of this policy. They have the responsibility to:

⁶ In accordance with relevant provisions and procedures set out in the [Statutes](#) of the College



- Visibly lead and champion a positive culture free from sexual misconduct where trust and transparency around sexual misconduct is paramount. This will include ensuring that all senior leaders are appropriately trained.
- Ensure that adequate resources are allocated to support a positive culture free of sexual misconduct including training and awareness raising campaigns and supports for employees and students.
- Proactively encourage individuals to seek support and guidance if experiencing issues of a sexual misconduct nature.
- Review sexual misconduct reports and recommendations submitted on a quarterly/ biannually basis from the Consent Framework Implementation Oversight Group (CFIOG) and take the necessary action.
- Ensure that relevant and appropriate data is publicly available to enhance transparency around the process.
- Engage in relevant training in relation to sexual misconduct and more broadly, equality, diversity and inclusion.
- Engage as appropriate, with the Board and external bodies such as the Higher Education Authority (HEA) in relation to progress on the implementation of the consent framework as appropriate.

1.3 Consent Framework Implementation Oversight Group

The Consent Framework Implementation Group, reporting to the Equality, Diversity & Inclusion (EDI) Group/Human Resources (HR) and EOG on a quarterly basis and annually to the Board, will consist of key stakeholders from across the University and external members who are expert in the area of sexual misconduct. It will have responsibility to provide oversight and guidance and enhance transparency around sexual misconduct as follows:



- Provide guidance and direction in relation to the implementation of the Sexual Misconduct Policy and supporting framework to support a culture of free of sexual misconduct in College.
- Monitor progress in relation to the implementation of the broader Consent Framework and measure against established KPIs.
- Monitor statistical data relating to reports made under the Speak Out tool, formal sexual misconduct complaints and contacts with designated supports roles such as the Contact Persons and the DR&C Support Advisors.
- Direct periodic assessments based on available data to be undertaken in accordance with the Safety, Health and Welfare at Work Act 2005, to assess the culture in an area in relation to sexual misconduct and measure the impact of the policy.
- Ensure there is transparency in relation to sexual misconduct in Trinity College through the publication of data, information and actions to address themes arising.
- Advise on best practice nationally and internationally.
- Act as Champions for a positive culture free from sexual misconduct and trust in the process.
- Report into and make recommendations to the EDI Group/HR and EOG to the Board.



1.4 Dignity Respect & Consent Response (DR&C) Manager

Role	Function
Dignity, Respect & Consent Response Manager	Has overall programme responsibility to manage implementation of the institutional Dignity & Respect and Consent programmes as well as engage appropriately with internal and external stakeholders.

The role of the Dignity, Respect & Consent Response Manager will entail both prevention and response actions. They will play a central and proactive role in fostering a safe, respectful, and supportive culture in the institution. They may have the following responsibilities. This is a non-exhaustive list:

- Creating and implementing an education, training, and awareness-raising plan for staff and students.
- Engaging with external specialist services/agencies and disseminating relevant information.
- Assisting the institution to put in place, and to monitor, policies and procedures relating to allegations of Sexual Misconduct involving staff and students and other categories of people at the University who are neither staff nor student.
- Implementing and monitoring institutional reporting systems, including the anonymous-reporting system 'Speak Out'.
- Liaising with representatives of relevant institutional services, implementation committees and external specialist services/agencies.
- Keeping up to date with relevant national and international practice.
- Managing a small team of DRCR Support Advisors who will assist and support complainants and respondents where disclosures have been made under the Sexual Misconduct Policy.



- Assisting the institution in the processing of allegations of Sexual Misconduct or complaints under the Sexual Misconduct policy involving staff or students.
- Providing help and support to the Screening Panel who receive disclosures and complaints/concerns within the institution.
- Updating institutional Senior Management and collating data and statistical information for internal and external reports.

The Dignity, Respect & Consent Response Manager will not be involved in deciding whether individual Sexual Misconduct allegations should be upheld and/or disciplinary sanctions imposed. Such decisions will be made via the institution's relevant processes. While they may be involved in initiating and depending on the institutional policy in place, coordinating the process, they will not personally participate in any investigation panels/process, nor will they seek to influence the findings of said panels/process.

1.5 DR&C Support Advisors

The key responsibilities of the roles include:

- Providing impartial information and support around options in relation to resolving issues of a sexual misconduct nature.
- Supporting engagement in informal interventions if there is a desire to do so including the provision of information on mediation and liaising with the external mediation provider in the event that mediation is proceeding.
- Accompanying a reporting person to approach the person carrying out the alleged sexual misconduct behaviour and potentially engaging with them if requested.
- Supporting and guiding the reporting person in making a formal complaint if they wish to do so.



- Accompanying complainants or respondents to investigation meetings (if requested to by the complainant or respondent) and providing after care support following a formal investigation process regardless of the outcome.
- Signposting and referring individuals to other appropriate support services both within the University and externally.
- Keeping accurate records to a safe, secure, professional, and ethical standard.
- Providing specialist advice to University employees/students on individual cases of sexual misconduct, including possible actions to ensure that employees and students feel safe and protected.
- Providing key support for the panel of Contact Persons and guide and advise as appropriate ensuring a high standard and consistency in delivery of support as well as championing of the panel.
- Liaising closely with other key supports such as Student Advisers, EDI, HR and the Consent Framework Implementation Oversight Committee.
- Supporting the delivery of sexual misconduct training to employees and students.
- Monitoring contacts and disclosures which will feed into the overall data reporting system that will support the Consent Oversight Sub-Group make decisions around instigating assessments in accordance with the Safety, Health and Welfare at Work Act 2005.
- Keeping abreast of best practice developments in this area nationally and internationally.

1.6 Individuals

As individual members of the University Community, we all have a responsibility to:

- At all times, treat all members of the University community with whom you interact with respect and be aware of the impact of your actions.



- Be familiar with the principles of this policy and positively contribute to a culture of consent and respect by engaging with any training and/or awareness raising initiatives.
- If you witness behaviour that you consider to be sexual misconduct, you should report it to a Head of School/Line Manager or the DR&C Support Advisors.
- Encourage any individual that confides in you that they have experienced sexual misconduct, to seek support and guidance from the sources available.
- Engage in training and awareness raising on the matters that are the subject of this policy.
- Engage in respectful conduct or behaviour that will not endanger your own safety, health and welfare at work or that of any other person including obligations under the Safety, Health and Welfare at Work Act, 2005.

1.7 Office of Junior Dean (for students)

The Office of the Junior Dean is charged by the Board of the College with the general oversight of student conduct. To that end the Board has authorised the imposition of a series of sanctions in cases which are brought before the Junior Dean's Office. For minor offences this may result in a fine being imposed upon a student. For major offences this can result in a student being expelled from College.

- Signpost Heads of School/Unit and line managers on addressing sexual misconduct related matters including how they can best support those **students'** experiencing issues of a sexual misconduct nature.
- Signpost **students** to specialist supports listed [here](#) and advisors such as the DRCR Manager, DRCR Support Advisors, Contact Persons, Student Counselling Service.



1.8 Human Resources (for employees)

Human Resources have a pan-university role in supporting Line Managers, Heads and other persons with responsibility for sexual misconduct matters. Human Resources have specific expertise and experience in all aspects of sexual misconduct issues and are in a position to provide or source appropriate supports to persons responsible for dealing with sexual misconduct matters when needed.

- Provide advice to Heads of School/Unit and line managers on addressing sexual misconduct related matters including how they can best support those **employees'** experiencing issues of a sexual misconduct nature.
- Signpost **employees** to specialist supports listed [here](#) and advisors such as the DR&C Support Advisor, Contact Persons, Employee Assistance Programme.
- Provide management support to investigators in the formal sexual misconduct complaints process.

1.9 Equality, Diversity & Inclusion (EDI) Office

The University's Equality Officer, located within the Equality, Diversity & Inclusion (EDI) Office, has a broad remit in encouraging diversity and supporting the University in ensuring that our policies and practices are compliant with our legal requirements and also to support their effective operation.

- Champion and maintain a culture of consent and respect throughout the University Community where sexual misconduct is not tolerated.
- Support the work of the Consent Framework Implementation Oversight Group
- Engage in relevant and appropriate training.
- Monitor, report on and publish the data in relation to sexual misconduct from the various sources and compile statistical reports and make recommendations to the



Consent Framework Implementation Oversight Group, Executive Officers Group and Board.

1.10 Role of the Screening Panel

The role of the Screening Panel is to:

- To make an evidentiary based decision as to whether the alleged behaviour, which is the subject of the complaint, falls within the definition of sexual misconduct as outlined in the Sexual Misconduct Policy.
- To make recommendations in relation to the consideration of informal options where appropriate as per the Sexual Misconduct Policy.
- To assess the impact of a delay on bringing a complaint forward on the likelihood of a fair investigation being carried out.
- To outline the reasons for their decision in writing and to recommend alternative appropriate University policy or procedure, if relevant. In this instance consideration will be given to the fact that the individual has already completed a complaint form outlining the details of the incident(s).
- If relevant, the Screening Panel may make a recommendation to the Director of Human Resources and or to the Junior Dean that precautionary action should be considered, based on the information contained in the complaint form.

1.11 People Managers

People Managers have important roles to play in creating a culture of consent and respect in their School/Unit/Professional Service and supporting employees who are experiencing issues of sexual misconduct, with support from HR.

There may be instances where an individual may feel that there is a conflict of interest in approaching their line managers where the issue is with the line manager or if both



individuals involved report to the same manager. In this instance, individuals can approach the next management level up or contact the DR&C Support Advisor in addition to engaging with the other sources of support available.

The role of the People Manager is to:

- Have primary responsibility for ensuring that the environment for which they are responsible, is positive and respectful.
- Be responsible for dealing effectively with concerns that come to their attention, either directly from a person experiencing offending behaviour, or by another means.
- At all times, treat all members of the University community with respect.
- Proactively promote ongoing awareness in relation to consent and respect in their area including keeping consent and respect as a regular agenda item at School/Unit meetings.
- Work with those involved in a sexual misconduct issue in a proactive manner to support the resolution of issues and stop the unacceptable behaviour. Seek advice from HR and the DR&C Service and engage with other people managers to seek support and advice (anonymously) in relation to addressing issues of consent and respect in their areas.
- Undertake appropriate training and be able to explain the policy and the supports to employees in their area.
- Encourage employees to come forward to report issues and to encourage them to seek support and guidance from the DR&C Service and other supports that can assist in the resolution of issues.
- Monitor and follow up on the situation to ensure that unwelcome and non-consensual behaviour does not occur or recur.
- Ensure their employees with a concern feel confident that bringing the matter to the attention of their Line Manager will result in the matter being dealt with appropriately in line with the procedures and principles set out above.



1.12 Tutor/Assistant Warden/Assistant Dean:

- A Tutor/Assistant Warden/Assistant Dean has primary responsibility for ensuring that the environment for which they are responsible, is positive and respectful.
- A Tutor/Assistant Warden/Assistant Dean is responsible for dealing effectively with student concerns that come to their attention, either directly from a student experiencing concerning/offending behaviour, or by another means.
- A student with a concern should feel confident that bringing the matter to the attention of their Tutor/Assistant Warden/Assistant Dean will result in the matter being dealt with appropriately in line with the procedures and principles set out above.
- A Tutor/Assistant Warden/Assistant Dean will undertake appropriate training and be able to explain the policy and the supports to students.

1.13 Contact Person:

- Contact Persons under this policy are available to any member of the University community.
- Contact Persons are available for confidential, discreet, private informal conversations.
- A Contact Person can provide information on the University's Sexual Misconduct Policy and explain and explore the options available in addressing concerns.
- The Contact Person will not disclose any matter, unless it involves acts, circumstances or incidents that require mandatory reporting, or which give reason to be concerned for someone's safety.
- The Contact Person has no investigative, decision-making, representative or witness role in any process.
- The Contact Person will undertake appropriate training and be able to explain the policy and the supports to the College community.



1.14 Trade Unions

One of the broader roles of a Trade Union is to advocate for and represent their members among employees. This is a role that extends to Sexual Misconduct issues.

Employees may seek advice and representation from the relevant union/association.

The University has a policy of partnership with representative organisations and works to bring about a shared understanding of the requirements of this policy and its operation, however, it should be noted that trade union act independently of the University to represent their members, they do not act on the University's behalf.

Trade union representatives should undertake appropriate training and be able to explain the policy and the supports to their members.

Contact details for the various trade unions can be found [here](#).

1.15 Students Unions

One of the broader roles of Students Union or Association is to advocate for and represent students. This is a role that extends to Sexual Misconduct issues.

Students may seek advice and representation from the relevant union/association.

The University has a policy of partnership with representative organisations and works to bring about a shared understanding of the requirements of this policy and its operation, however, it should be noted that student representatives act independently of the University to represent students, they do not act on the University's behalf.

Undertake appropriate training and be able to explain the policy and the supports to students.

Contact details for the Trinity College student's union can be found [here](#).



Appendix 2 Definitions

2.1 What Is a Respectful Positive Culture

It is a culture where all opinions and backgrounds are valued, one where:

- We treat all people respectfully.
- Everyone is valued with no unfavourable treatment permitted regarding any characteristics related to: where they are from, their disability status, religion, gender, sexual orientation, size, age, race, ethnicity, membership of the Traveller community (incorporating principles of our Equality Policy).
- We can freely express ourselves and share our ideas with confidence that will not be disrespected or mistreated in any way.
- We practice constructive dialogue when engaging with each other.
- Disputes and disagreements are resolved in a healthy, respectful way.
- We have open channels of communication.
- We value diversity of views, perspectives and backgrounds, without presumption or judgement.
- New colleagues and classmates are welcomed across the University.
- Advancement and promotions are unbiased, fair, and based entirely on merit.
- It is not the intention of the policy to discourage or prevent normal good-humoured chat and banter between colleagues and classmates. Care must be taken not to cross the line into unacceptable behaviour, which may be offensive, abusive, intimidating, malicious or insulting.
- Each individual should be aware of their own behaviour and its potential effects on others.

Breaches of the policy may constitute grounds for invoking disciplinary procedures which may result in sanction up to and including dismissal or expulsion. This policy does not affect



any person's statutory rights under the Employment Equality Acts, the Equal Status Acts and the Public Sector Equality and Human Rights Duty (the Public Sector Duty) as set out in section 42 of the Irish Human Rights and Equality Commission Act 2014.

2.2 Definition of Harassment

Harassment is any form of unwanted conduct related to any of the discriminatory grounds, being conduct that has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment. Such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other materials.

The Employment Equality Acts 1998-2015 define harassment as unwanted conduct which is related to any of the nine discriminatory grounds.

The nine grounds are: gender, civil status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community.

2.3 Definition of Consent⁷

Consent in the context of sexual misconduct is defined as the freely given verbal or non-verbal communication of a feeling of willingness to engage in sexual activity. A person consents to a sexual act if they freely and voluntarily agree to engage in that act. There is no consent if the victim is asleep or unconscious; force or the threat of force is used; they cannot consent because of the effect of alcohol and/or drugs; they cannot communicate consent because of a physical and mental disability; they are mistaken about the act or about the identity of the other person; the only indication of consent came from a third person, or if they are being unlawfully detained at the time of the act. This is not an exhaustive list and are illustrative only.

⁷ This definition is consistent with the definition of consent in the Criminal Law (Sexual Offences) Act 2017



Consent can be withdrawn at any time, and just because someone has previously given consent, does not preclude that person from withdrawing consent.

Non-consensual sexual activity may amount to a prosecutable criminal offence.

2.4 Definition of Disclosure

In the context of this policy, disclosure refers to the case where an individual discloses that they feel they have been subjected to sexual misconduct, which includes sexual harassment and sexual violence. Making a disclosure does not constitute raising a complaint, however, after seeking support, you may decide to then submit a formal complaint and seek to have it progressed informally or formally.

When making a disclosure, you will be supported to work through the issue by a trained support person, such as the DR&C Support Advisor and discuss what a resolution would look like for you, with safety for everyone being of paramount importance. You will also be signposted towards other internal and external supports. You will be made aware of your right to make a formal complaint and/or contact the Gardaí (the Irish National Police) in the case of an alleged criminal offence.

2.5 Reporting Person

A reporting person is defined as an individual that has come forward to report an incident(s) that they consider to be sexual misconduct type behaviour. However, no complaint form has been submitted at this point.

2.6 Person Being Reported

A person being reported is defined as the individual that the reporting person considers to be conducting the sexual misconduct type of behaviour, however no formal complaint form has been submitted at this point.



2.7 Complainant

The Complainant is a person who makes a formal complaint, using the complaint form, that they have been subject to sexual misconduct.

2.8 Concern

A concern is a matter that engages a person's attention, interest, or care, or that affects a person's welfare (eg) about how they have been treated and they wish to report their concern but do not want it addressed or they may wish to have it addressed informally.

2.9 Complaint

A complaint is a statement that something is unsatisfactory or unacceptable to them, for example a complaint about how they have been treated and want it addressed either informally or formally.

2.10 Respondent

The respondent is a person who is named in a formal complaint as having allegedly carried out the sexual misconduct complained of.

2.11 Discrimination

The Employment Equality Acts 1998 – 2015 defines discrimination as treating one person in a less favourable way than another person based on any of the equality grounds as set out above under harassment (Appendix 2.2). These include recruitment and promotion; equal pay; working conditions; training or experience; dismissal and harassment including sexual harassment. Claims of discrimination (other than harassment and sexual harassment) are managed under the Grievance Procedure for employees or Student Complaints for students.



2.12 Vulnerable Person⁸

A “vulnerable person” means a person, other than a child, who—

- (a) is suffering from a disorder of the mind, whether as a result of mental illness or dementia,
- (b) has an intellectual disability,
- (c) is suffering from a physical impairment, whether as a result of injury, illness or age, or
- (d) has a physical disability,

which is of such a nature or degree—

- (i) as to restrict the capacity of the person to guard himself or herself against harm by another person, or
- (ii) that results in the person requiring assistance with the activities of daily living including dressing, eating, walking, washing and bathing.

⁸ Definition from the National Vetting Bureau (Children and Vulnerable Persons) Act 2012



Appendix 3 Maintaining a Safe Environment

3.1 Victimisation

No person should be the subject of any act or omission that affects them to their detriment for having raised sexual harassment or sexual misconduct issues for themselves or which they may have witnessed, making a formal complaint in good faith, for giving evidence in an investigation (for example as a witness/bystander) or by giving notice of intention to do so under this Sexual Misconduct Policy. The University takes victimisation very seriously and action will be taken in instances where this occurs. Any individual that experiences victimisation is strongly encouraged to seek support and report this behaviour to the DR&C Support Unit.

3.2 Penalisation

The Safety, Health and Welfare at Work Act, 2005 (the “2005 Act”) prohibits employers from penalising employees for making complaints in respect of health and safety matters in the workplace. Penalisation under the 2005 Act is defined as any act or omission of an employer which affects a term or condition of employment of an employee to their detriment. Penalisation could include suspending, demoting, dismissing an employee or reducing their wages. It could also include coercion or intimidation.



Appendix 4 More Information on The Role of The Screening Panel

4.1 The Screening Panel

- The Screening Panel consists of four people in total: three primary senior nominees who will generally be from HR, EDI Office, the Office of the Junior Dean and an externally appointed independent third party. Appropriate gender representation will be reflected as far as possible on the Panel.
- In reserve, there are three other internal nominees and four external members in total. Full details on the panel members can be found [here](#). Members of the screening panel will receive training in relation to bullying, harassment and sexual misconduct, including trauma informed and sexual violence training.
- If a conflict of interest exists in relation to any member of the Screening Panel regarding a particular formal complaint, the panel member will recuse themselves and the next available reserve panel member will be called upon. In the event that both the primary and reserve panel members from either HR, EDI Office or the Office of the Junior Dean are conflicted, then the Head of the Area concerned will nominate a further person from their function to act as a panel member on an exceptional basis.

4.2 The Role of the Screening Panel

- To make an evidentiary based decision as to whether the alleged behaviour, which is the subject of the complaint, falls within the definition of sexual misconduct and the scope as outlined in Sexual Misconduct Policy.
- To make recommendations in relation to the consideration of informal options where appropriate in the case of sexual misconduct as per the Sexual Misconduct Policy. Proceeding to a formal process should not be viewed as automatic.



- To assess the impact of a delay on bringing a complaint forward on the likelihood of a fair investigation being carried out. The impact of the delay will need to be determined by the Screening Panel based on the information they receive as part of the formal complaint, and they will consider the following:
 - The circumstances of the alleged complaint.
 - The complexity of the alleged complaint.
 - The cause of the delay.
 - Possibility of prejudice to the respondent.
- To outline their decision in writing, that if the complaint does not fall within the remit of the Sexual Misconduct policy, then the Screening Panel will outline why this is the case in writing and point the complainant to other policies/processes of relevance.
- In this instance consideration will be given to the fact that the individual has already completed a complaint form outlining the details of the incident(s).
- To make a recommendation, where relevant, to the Director of Human Resources and or the Junior Dean that precautionary measures should be considered, based on the information contained in the complaint form.

4.3 The Screening Panel Decision

- The Screening Panel will make its decision based on the written complaint submitted but reserves the right to seek clarification from the complainant in relation to any aspect of their complaint and/or seek legal advice.
- Where there is more than one University procedure (and/or policies) applicable to any one matter, this will be reviewed by the Screening Panel and they will decide which of the University procedures (and/or policies) should have priority or be the most appropriate in the circumstances and may direct the continuations of some procedures(s) (and/or policies) and the suspension of others pending the outcome of the former.



- Where a decision is made that not all issues raised in the complaint are deemed to be in scope of the Bullying and Harassment policy and Sexual Misconduct policy, that will be shared with an investigator as part of the investigation process.
- Decisions made by the screening panel are not a pre-determined outcome of the findings of an investigation. An Investigator may also make a finding that a complaint was not in scope having received further information not available to the Screening Panel.

4.4 What happens next?

- The Screening Panel will outline their decision to the DR&C Manager. If the alleged behaviour is deemed to fall under the relevant definition(s) and scope, and informal options are deemed to be inappropriate by the Screening Panel, the Screening Panel will put the complaint forward for investigation.
- The DR&C Manager will then notify the complainant in writing of the outcome of the preliminary screening and key contacts going forward normally within 10 working days from the date of the complaint being received by the panel.
- If the panel has recommended informal options as the most appropriate means of resolving the issue, a nominated person (member of the Screening Panel) will arrange a meeting with the complainant and respondent separately. The purpose of these meetings is to discuss the informal options available and the reasons as to why informal resolution is considered to be the most appropriate and effective means of resolving the issue(s). A note taker will also attend the meeting.
- The respondent will be notified of the complaint and provided with a copy of the formal complaint form, screening panel decision and these procedures at this point. The complainant and respondent will be provided with a written summary of the actions agreed following the meetings.
- The complainant and respondent must inform the DR&C Manager of their decision in writing in relation to their decision around proceeding with informal options within



five (5) working days of meeting with the member of the Screening Panel and their decision will be confirmed in writing.

- If informal resolution is proceeding, the formal investigation process will not commence to allow for informal resolution to be engaged with by the parties involved. If informal resolution is successful, then the complaint will be considered to be appropriately dealt with and both parties will be informed accordingly. If informal resolution is unsuccessful, the formal complaints investigation will commence.
- If there are mitigating factors as to why informal options are not appropriate, then the complaint will proceed to a formal investigation.
- If the complaint is put forward for formal investigation, an individual DR&C Support Advisor will be appointed as the support person for both the complainant and respondent and they will manage the administration of the investigation process. They will receive the complaint in order for the formal investigation procedure to commence.
- The respondent will then be notified within ten working days and provided with the Complaint Form, the Policy, these Procedures and the written decision of the Screening Panel, if informal options were not recommended and therefore the respondent has not been provided with these documents previously.
- If the complaint is deemed not to come within the scope of the Policy, the complainant will be so informed by the DR&C Manager and advised on the appropriate procedure for dealing with the matter if relevant. In this instance, the respondent will not normally be notified of the complaint and details of supports under this policy.



Appendix 5 More Information on the DR&C Support Advisors

- DR&C Support Advisors will be hired into this role.
- There will be DR&C Support Advisors for employees and students.
- The DR&C Support Advisors will work proactively with employees and students who disclose issues of a bullying, harassment and/or sexual misconduct and those who are reported.
- DR&C Support Advisors, who are experienced and trained to support, respond and advise on all reports of a sexual misconduct nature, will provide you with a supportive, confidential environment in which to discuss the issues and support you to make a decision that is right for you and your situation.
- As a reporting person, DR&C Support Advisors will provide support and work with you in relation to the steps to seeking a solution to the issues you are experiencing. This includes supporting you through any informal interventions you wish to use, including accompanying you to meetings with the individual if you wish to approach them or potentially engaging with the other individual depending on the circumstances.
- They can also assist you in completing the formal complaint form if you wish and continue providing that support throughout the formal complaints process which may include accompanying you to investigation meetings and the provision of aftercare support following any informal or formal interventions.
- DR&C Support Advisors are also available to support you if you have been accused of sexual misconduct behaviour, however different DR&C Support Advisors will support the various people involved to avoid a conflict of interest.
- DR&C Support Advisors will provide details about the informal options available or if a formal complaint has been made, they will provide information as to what this will normally entail. They may accompany you to investigations and also provide aftercare support.



- The DR&C Support Advisors will also support, and work closely with, the panel of Contact Persons, who are trained voluntary support roles available to those experiencing issues of a sexual misconduct nature.
-



Appendix 6 Mediation

The University supports the use of mediation as an alternative method of resolving complaints. Mediation is an informal process, through which a Mediator helps the parties in a dispute to talk about the issues between them, and if they wish, to reach an agreement which is acceptable to both sides. The process is voluntary and both parties must be willing to take part and agree to the appointment of a Mediator.

If the parties agree to this approach, the University will appoint a neutral and impartial Mediator to facilitate the process. The person appointed will be an experienced trained Mediator. The mediation process is strictly confidential to the parties involved. The notification of any agreed outcome may be communicated to any other party only by agreement with the participants and the Mediator.

Mediator's role	• To set up, and have signed, the terms of reference with the parties. • To set up the meetings and venue. • To provide an environment which facilitates the open discussion of the issues at hand. • To facilitate the parties agreeing the issues for discussion and exploration of solutions. • To mediate with the parties in the finding of a resolution. • To maintain confidentiality. • The mediator will not hand down a solution and will not make decisions for the participants. • The mediator is independent and neutral and will not 'take sides'. • The mediator is in charge of the process but not the outcome.
------------------------	---



Role of the parties	• To volunteer for mediation, and to sign the contract/terms of reference. • To fully engage in the process and to genuinely attempt to find an acceptable resolution. • To be as open and as honest as possible during the mediation sessions. • To provide information where necessary to move the process forward. • To work with the mediator. • To maintain confidentiality.
How does the process work?	• Reporting persons/complainants are advised of the informal options, including Mediation. • Options for mediation are discussed with both parties. • On agreement to participate, a Mediator is appointed. • Mediator contacts both parties directly to make the meeting arrangements.
Where?	• The meetings will be held in a quiet private neutral space.
Time Frame	• The first meeting should be arranged as quickly as possible. • Mediation sessions may last between 1.5 hours to 3 hours. • There may be a need for a number of sessions. • If required, the Mediator will discuss with HR how attendance may be facilitated without breaking confidentiality.
Confidentiality	• Matters discussed in mediation sessions are confidential and on a 'without prejudice' basis. • The participants agree not to compel the Mediator to divulge any matters discussed at mediation, including at any legal or workplace relations forum.



	• Participants must maintain strict confidentiality on matters discussed during mediation. • Any written outcomes or notes will be agreed by all the parties. • No information about a mediation will be held on an Employee or Student record, unless otherwise agreed with the parties involved.
Feedback	• There is no feedback provided to the University from the mediation, other than reporting that a mediated solution has/has not been found.
What if no resolution?	• If there is no resolution found, it is up to the parties to decide on the next steps. They may agree to leave the matter aside, or the complainant may wish to progress the matter through the formal procedures.
Costs	• There is no cost to the participants.



Appendix 7 Facilitated Conversation

The University supports the use of facilitated conversation as an alternative method of resolving complaints. Facilitated conversation is an informal process and is assistance from an independent third-party to facilitate dialogue between the parties. It is held in a neutral venue and provides a safe space for each party to talk freely to each other on the impact of the allegations. The process is voluntary and both parties must be willing to take part and agree to the appointment of a Facilitator.

This may be provided by a suitably skilled member of staff, specialist or external support.



Appendix 8 Transparency

An anonymised report including an analysis of data collated in relation to contacts, reports, formal complaints and anonymous reports via the University's anonymous Speak Out system and, where appropriate, relevant recommendations will be submitted to the EOG on a quarterly basis and annually to the Board.

The Consent Framework Implementation Oversight Group will monitor data arising from concerns and complaints.

Data collection will enable the group to identify areas for assessments under The Safety, Health and Welfare at Work Act 2005. Specifically, the report will include:

- Statistical data relating to contacts, reports, anonymous reports and formal complaints made under the Sexual Misconduct Policy.
- The number of formal complaints investigations and the number of formal complaints that led to disciplinary action in a data protection compliant manner.
- An analysis of the data collated and any relevant recommendations.
- Summary of progress against the University's Progress on Implementation of the Framework for Promoting Consent and Preventing Sexual Violence action plan.
- Outline of planned actions and initiatives.

For the purpose of continuous monitoring and to enable local review, bi-annual reports will be produced and disseminated to senior University leaders. Data will also be made available to relevant University stakeholder groups as appropriate.

The University will also report relevant data to the HEA as appropriate.



8.1 Confidentiality (see Data Privacy statement)

Confidentiality will be observed as far as practicable and in accordance with the provisions of the Data Protection Act 2003 – 2018, the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 and the Children First Act, 2015 which governs child protection. Confidentiality is a key principle of the Sexual Misconduct policy and is essential to the integrity of a formal complaints process. It is important that any party to a complaint, which most commonly includes reporting person/complainant, person being reported/respondent or witness, does not breach confidentiality. This does not preclude parties to the complaint from accessing confidential support services and confiding in them such as the Employee Assistance Programme or Student Counselling, speaking to a designated dignity and respect contact person or a student advisor, trade union representative, accompanying person or human resources or other support. Respect for an individual's request for confidentiality will be maintained (as far as practicable) except in any or all of the following situations:

- In situations where there is a risk that a respondent may repeat their actions and pose a real physical/mental threat to the well-being of others or a risk to their own life. If this situation arises, the HR Director or the Junior Dean, as appropriate, must be contacted and there will be full disclosure to them.
- Where failure to disclose information may be a breach of statute.
- Where an individual is a minor and/or a vulnerable person.
- Where there is a potential risk to the University.

The University will take action that is necessary and proportionate in order to protect the rights of the reporting person/complainant, person being reported/respondent or witness involved in an investigation.



Appendix 9 Inputs Into Developing This Policy

The national framework, “Safe, Respectful, Supportive and Positive: Ending Sexual Violence and Harassment in Irish Higher Education Institutions, 2019”, which outlines a framework that promotes a healthy and informed understanding of consent and relationship in higher education systems, has been closely followed in support of this policy. The Irish Universities Association (IUA), How to Respond to Alleged Employees or Student or University Related Sexual Misconduct 2020 has also informed the development of this policy⁹.

The Policy has been developed to set out the University’s approach to ensuring a safe, respectful and supportive campus for students and employees in line with the IUA Framework’s principles of Visibility, Transparency, Consistency, Integrity and Student-centred approach, to inform of the expected standards and behaviours, supports available and consequences of a breach.

Visibility	Creating a campus community in which everybody assumes responsibility for addressing sexual violence and harassment. It promotes positive behaviours around sex, which necessitates highly visible messaging and regular affirmation from senior University leadership.
Transparency	Transparency is a vital element with regard to policies and procedures surrounding gender-based violence, sexual misconduct and sexual harassment. The policy must be transparent and easily assessable to all. Students and employees need to be engaged and contributing in the development and revision of policies in this area.

⁹ https://research.ie/assets/uploads/2021/06/IRC-Bullying-Harassment-and-Sexual_Harassment-Policy_June-2021.pdf



Consistency	The application of policies must be experienced consistently by all. This is true regardless of whether they are applied towards an employee or a student. When an individual makes a complaint there is confidence that disclosures will be dealt with in a timely manner and in accordance with institutional procedures.
Integrity	Integrity is at the heart of the processes and procedures held by the University. Students and employees must be assured that policies clearly show a consistent and uncompromising adherence to strong ethical principles and values. This ensures that confidentiality and anonymity are respected while not being used to hinder disclosures.
Person-centred approach	Attention to the diversity of employees and the student body is at the centre of policies surrounding sexual violence or misconduct. The University needs to commit to effectively responding to the needs of students and employees by providing care and support, educating and empowering, and supporting those who have experienced sexual violence or misconduct.