



HARTPURY

SEXUAL MISCONDUCT POLICY

OVERALL AIM and OVERARCHING PRINCIPLES

Hartpury is committed to providing a safe campus environment where all members of the community feel respected and promoting a culture that includes a zero-tolerance approach to sexual misconduct. Hartpury will thoroughly address any incidents to ensure the preservation of a safe work, study and living environment. Hartpury expects that all members of our community will share in this responsibility for creating and sustaining an environment, which upholds the dignity of all.

Hartpury recognises that incidents of sexual misconduct occur within every educational establishment. Sexual misconduct refers to a broad spectrum of behaviours that cannot be divorced from other types of gender-based violence including, but not limited to, intimate partner violence or domestic abuse, coercive and/or controlling behaviour, and stalking. Hartpury acknowledges that any individual, regardless of their identity, can experience sexual misconduct, harassment and violence.

This Policy sets out Hartpury's expectations of behaviour from its staff and students and provides approaches for dealing with complaints of sexual misconduct. It intends to protect students and employees from inappropriate sexual behaviour, which may include, but is not limited to, violence, grooming, misconduct and harassment.

As an institution we do not tolerate any kind of:

- Sexual Violence
- Sexual Abuse
- Sexual Harassment

Hartpury recognises the significant negative effects that experiencing sexual misconduct can have upon individuals and Hartpury will support those experiencing any form of sexual misconduct, as well as supporting those members of the Hartpury community (peers, personal tutors, etc.) to whom such experiences are disclosed.

Hartpury is committed to providing a supportive, confidential environment where all feel confident and empowered to disclose, knowing they will be listened to and given insight into the options available to them. Hartpury will respect the right of the individual disclosing an experience to choose how to take forward a disclosure. Hartpury will have the right to escalate a disclosure if there is significant risk identified through safeguarding procedures.

Hartpury will support everyone in the Hartpury community to challenge inappropriate behaviour where it is safe for them to do so.

Hartpury will actively respond to all reports of sexual misconduct and, whilst recognising that some experiences may constitute a criminal offence, will ensure that, in all cases, reports are carefully and thoughtfully addressed by relevant staff members through a process that is transparent and clearly communicated to the individuals involved. All reports will be considered under Hartpury's relevant procedures and will be assessed on the balance of probabilities in line with Disciplinary & Dismissal Policy (for Staff) or Disciplinary/Behaviour Management Policies as appropriate (for students) as well as relevant sector guidance.

All staff are informed of this policy and will be trained as appropriate to their roles. All staff involved in the process will act with impartiality and discretion at all times.

Hartpury will work with local partners and key groups to forge positive relationships to support all our work in this area, from prevention to enquiry and post-incident care.

In addressing experiences and working with both internal and external experts, Hartpury will seek to learn from experience, enabling Hartpury to both shape and respond to external policy and practice, and to provide regular assurance to the Board of Governors and the wider Hartpury community, that specific incidents and broader cultural issues are appropriately captured and addressed.

RESPONSIBILITIES

The Vice-Chancellor & Principal and the Vice Principal Resources (Designated Safeguarding Lead) are responsible for the application of the procedures associated with this Policy. The Deputy Designated Safeguarding Leads are responsible for the day-to-day management of the Sexual Misconduct Policy and key staff contacts include the Senior Wellbeing Officer and Wellbeing Officer with the role Sexual Violence Liaison Officers. The Head of HR has key responsibilities for the application of the Procedure for managing disclosures or reports involving allegations of staff sexual misconduct.

DEFINITIONS and SCOPE

Sexual misconduct includes a broad spectrum of behaviour. Some incidents of sexual misconduct may also constitute a criminal offence under English law. Such incidents may be addressed through criminal proceedings, internal disciplinary proceedings, or, in some cases, both criminal and internal proceedings.

Sexual Misconduct is defined as any unwanted conduct of a sexual nature which occurred in person or by letter, telephone, text, email or other electronic and/or social media and includes, but is not limited to, the following behaviour:

- Engaging, or attempting to engage in a sexual act with another individual without consent;
- Sexually touching another person without their consent;
- Conduct of a sexual nature which creates (or could create) an intimidating, hostile, degrading, humiliating, or offensive environment for others including making unwanted remarks of a sexual nature;
- Inappropriately showing sexual organs to another person;
- Repeatedly following another person without good reason;
- Recording and/or sharing intimate images or recordings of another person without their consent; and
- Arranging or participating in events, which may reasonably be assumed to cause degradation and humiliation to those who have experienced sexual violence, for example inappropriately themed social events or initiations.

Sexual Violence is the general term used to describe any kind of unwanted sexual act or activity, including rape, sexual assault, sexual abuse, and many others. Sexual offences under the Sexual Offences Act 2003 are described below;

- **Rape:** A person commits an offence of rape if: he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis, B does not consent to the penetration and A does not reasonably believe that B consents.
- **Assault by Penetration:** A person (A) commits an offence if: s/he intentionally penetrates the vagina or anus of another person (B) with a part of her/his body or anything else, the penetration is sexual, B does not consent to the penetration and A does not reasonably believe that B consents.

- Sexual Assault: A person (A) commits an offence of sexual assault if: s/he intentionally touches another person (B), the touching is sexual, B does not consent to the touching and A does not reasonably believe that B consents. (Schools should be aware that sexual assault covers a very wide range of behaviour so a single act of kissing someone without consent or touching someone's bottom/ breasts/genitalia without consent, can still constitute sexual assault.)
- Causing someone to engage in sexual activity without consent: A person (A) commits an offence if: s/he intentionally causes another person (B) to engage in an activity, the activity is sexual, B does not consent to engaging in the activity, and A does not reasonably believe that B consents. (This could include forcing someone to strip, touch themselves sexually, or to engage in sexual activity with a third party.)

Sexual Harassment is unlawful under the Equality Act 2010 ('the Act'). It is also unlawful to treat someone less favourably because they either have submitted a complaint of sexual harassment or have rejected such behaviour. Under the Act, sexual harassment is defined as occurring when a person engages in unwanted conduct of a sexual nature that has the purpose or effect of;

- violating someone's dignity
- creating an intimidating, hostile, degrading, humiliating or offensive environment for them

Sexual harassment includes a wide range of behaviours including but not limited to:

- sexual comments or jokes
- displaying sexually graphic pictures, posters or photos
- suggestive looks, staring or leering
- propositions and sexual advances
- making promises in return for sexual favours
- sexual gestures
- intrusive questions about a person's private or sex life, and discussing your own sex life
- sexual posts or contact on social media
- spreading sexual rumours about a person
- sending sexually explicit emails or text messages
- unwelcome touching, hugging, massaging or kissing
- criminal behaviour, including sexual assault, stalking, grooming, indecent exposure and sending offensive communications
- predatory behaviour
- coercion

Consent is defined where an individual has agreed to engage in the activity by their own choice. The individual must have the freedom and capacity to ensure full consent is obtained. Under the Sexual Offences Act (2003), steps to obtain consent must be clear and established. Consent cannot be given by individuals who;

- Are under the age of 16
- Are Intoxicated
- Are incapacitated by drugs or alcohol
- Asleep
- Unconscious

Consent can be withdrawn at any time during the sexual activity, changes in the activity and each time activity occurs. Consent cannot be obtained if the individual agrees to the activity under pressure of intimidation or coercion.

An individual can experience sexual harassment from someone of the same or different sex. The recipient of the behaviour decides whether it is unwanted. Sexual harassment can be a one-off event and does not need to be directed at a person, the behaviour can be witnessed or overhead. Sexual conduct that has been welcomed in the past can become unwanted and reports of sexual misconduct can be made after a length of time.

For the purpose of this Policy, 'employees or staff' are defined as any individual either employed or engaged by Hartpury on a paid or unpaid basis to carry out work for Hartpury under any type of employment contract including agency workers.

For the purpose of this Policy, 'students' are considered to be any individuals registered to study on any programme of study at Hartpury. Students may also be studying away from Hartpury premises as part of work experience or a placement.

Anyone working on a voluntary basis and those working as contractors are also bound by the terms of this Policy as is any person engaged with, or representing, Hartpury. Victimisation of any individual making a complaint under this Policy will not be tolerated and will be dealt with under Disciplinary & Dismissal Policy (for Staff) or Disciplinary/Behaviour Management Policies as appropriate (for students).

Sexual harassment constitutes serious misconduct and could result in dismissal (for employees) or exclusion (for students).

EXPECTED BEHAVIOUR of STAFF

Hartpury believes that the professional relationship of trust and confidence that exists between students and staff is a central and essential part of a student's educational development and pastoral care. Hartpury staff must not abuse their position in any way. Given the inherent imbalance of power between many staff and students, Hartpury strongly discourages intimate relationships between its staff and its students where there is a potential conflict of interest or abuse of power. Such relationships could compromise the trust and confidence that underpins the learning experience and may negatively impact on the student's educational development and pastoral care, and may in some circumstances constitute an abuse of power.

An imbalance of power can also exist between staff due to the positions they hold within the institution. Any abuse of the professional working relationship between staff is unacceptable and could be subject to disciplinary action.

Hartpury recognises that, on occasion, a consensual relationship may develop between a student and a member of staff. In such cases, the staff member must report the relationship to their line manager as soon as possible and must follow the Code of Professional Conduct for staff to safeguard the student, themselves and Hartpury.

Hartpury recognises that, on occasion, a consensual relationship may also develop between two employees. In such cases both employees must follow the Code of Professional Conduct for Staff.

The Sexual Offences Act 2003 (Sections 16 to 21) prohibits sexual contact between a person and another person aged under 18 where such a relationship would be an abuse of a position of trust between the parties. This includes situations where the young person is attending an educational institution.

EXPECTED STANDARDS of BEHAVIOUR FOR STUDENTS

Sexual misconduct by a student towards a member of staff and/or another student will be considered under the Non-Academic Behaviour Management Policy and University Disciplinary Policy and action taken under these policies can include exclusion from the institution.

REPORTING CHANNELS

Any member of staff is encouraged to formally report cases of sexual misconduct whether they are the recipient of the behaviour or are witness to it as soon as reasonably practicable.

REPORTING CHANNELS FOR STAFF

Staff should make a complaint to Head of HR who can advise on how to proceed. Complaints will normally be progressed through the Disciplinary & Dismissal Policy. The Safeguarding & Wellbeing Team will be notified by the HR Team if the complaint is against a student and will progress the complaint in accordance with Appendix 1 of this Policy.

If a member of staff becomes aware of sexual misconduct between a colleague and student or another staff member, advice should be sought from the Head of HR.

Sexual misconduct can also give rise to situations where there is coercive or predatory behaviour. If intimate relationships arise between colleagues and any person has concerns about any predatory or coercive element to such relationship, they are encouraged to report or disclose this to their line manager, or other relevant senior manager, who is obliged to ensure that such reports are recorded. The senior manager will liaise with the Head of HR to determine whether to make arrangements for an investigation to be undertaken in accordance with the Disciplinary and Dismissal Policy (Staff).

REPORTING CHANNELS FOR STUDENTS

Any student complaint relating to sexual misconduct, including witnessing such behaviour will follow the procedure in Appendix 1 of this Policy.

INVESTIGATIONS INTO COMPLAINTS OR ALLEGATIONS

Any investigations into allegations of sexual misconduct by staff will be conducted under the Disciplinary & Dismissal Policy (Staff). Investigations into allegations of sexual misconduct by students will be conducted in accordance with Appendix 1 of this Policy.

Sexual misconduct may also lead to a criminal investigation being instigated into the actions of a member of staff or student where there are concerns that a criminal act has taken place, advice must be taken from Hartpury's Designated Safeguarding Leads.

Confidentiality will be maintained, subject to any requirement to involve external agencies where a criminal offence may have been committed or where maintaining confidentiality would pose a risk to the person making the report, or to others.

SUPPORT and ADVICE FOR STAFF

There are many sources of support available to staff prior to making a complaint or to both complainant and alleged perpetrator once a complaint has been made. These include:

- HR Team
- Safeguarding & Wellbeing Team
- Line managers
- Executive Team
- Appropriate external agencies

SUPPORT and ADVICE FOR STUDENTS

There are many sources of support available to students prior to making a complaint or to both complainant and alleged perpetrator once a complaint has been made. These include:

- Safeguarding & Wellbeing Team
- Sexual Violence Liaison Officer
- Hartpury Students' Union
- Personal tutor
- Appropriate external agencies

RELATED POLICIES and HARTPURY DOCUMENTS

This Policy should be read in conjunction with the following Hartpury documents and policies:

- Code of Professional Conduct (Staff)
- Child Protection & Safeguarding Policy & Procedures
- Disciplinary & Dismissal Policy & Procedures (Staff)
- Non-academic Behaviour Management Policy/University Disciplinary Policy (Students)
- Harassment Policy
- Equality, Diversity & Inclusivity Policy

APPENDIX 1 - STUDENT PROCEDURE INTRODUCTION

This procedure sets out how Hartpury will deal with incidents of sexual misconduct against student members of the Hartpury community.

SCOPE of PROCEDURE

This procedure applies to all alleged incidents of Sexual Misconduct Policy breaches between Hartpury's students. The parties involved in the allegation of Sexual Misconduct are defined as;

- The "Reporting Party" - defined as the individual who is making the disclosure regarding the experience of sexual misconduct, violence or harassment.
- The "Responding Party" - defined as the person who is alleged to committed an act of sexual misconduct, violence or harassment.

In the event that the "reporting party" is a Hartpury student and "responding party" is a student, this procedure will apply and the investigation will be managed by the Designated Safeguarding Lead or Deputy Designated Safeguarding Leads. In the event that the "responding party", is a member of staff, action will be taken by HR Team.

If a decision is taken not to deal with a case under this procedure then the "reporting party" can request a review of that decision in accordance with the review process set out in this Appendix.

POLICE INVESTIGATIONS and JUDICIAL PROCEEDINGS

This procedure is designed to support the 'reporting party' to disclose incidents of sexual misconduct to Hartpury, and to support the 'reporting party' when they choose and assess the course of action that is most appropriate for them.

Where a criminal investigation or judicial proceedings are ongoing or are likely to commence in respect of a disclosure, Hartpury can receive a report of sexual misconduct. In the interest of not causing impediment to the criminal proceedings, Hartpury will not commence an internal investigation or will suspend an ongoing investigation. In all cases, Hartpury will undertake necessary precautionary action. Reports under this procedure of alleged incidents of sexual misconduct will be considered at an initial review meeting (IRM) including situations where the 'reporting party' chooses not to report the matter to the Police. An initial review meeting may also be called after the conclusion of a criminal investigation or judicial proceedings where there are issues outstanding and pertinent to the students involved. A decision by the Police or Crown Prosecution Service (or other law enforcement agency) to take no further action in relation to a criminal matter or an acquittal at a trial does not preclude Hartpury from taking action under this procedure and does not mean the 'reporting party' has made a vexatious or malicious report. In all cases, Hartpury will advise the 'reporting party' that it does not have the legal investigatory powers of the Police, and cannot make a determination on criminal guilt. An internal investigation is focused exclusively on whether a breach of the Hartpury's Sexual Misconduct Policy has occurred. The internal process cannot, therefore, be regarded as a substitute for a Police investigation or criminal prosecution.

Where a student has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of Hartpury's Sexual Misconduct Policy, the conviction/caution will be taken as conclusive evidence that the behaviour took place and no further investigation shall be required by Hartpury. The case will be referred by the Vice Principal Resources as an allegation of a major offence under the University Disciplinary Policy/Non-Academic Behaviour Management Policy.

SUPPORT

Hartpury is committed to providing support for those members of its community affected by these issues. Hartpury will provide information on support resources available and offer interim measures as appropriate to the 'reporting party', 'responding party', and witnesses involved in alleged incidents of sexual misconduct. Support resources are available to any member of Hartpury who discloses an incident regardless of their choice to make a report to the Hartpury or Police. Support remains available irrespective of the outcome of an investigation. The 'reporting party' and 'responding party' will each have a Sexual Violence Liaison Officer assigned to them to offer welfare and pastoral support. This support will be separate; one member of staff will not provide support to both parties. Support will be offered in a format agreed by both parties. The 'reporting party' will be signposted to the Gloucestershire Rape & Sexual Abuse Centre (GRASAC). The 'reporting party' and 'responding party' may be signposted to Hartpury Students' Union to access impartial and confidential advice.

MONITORING

Hartpury (the Wellbeing Team) will maintain a central record of incidents to effectively engage in prevention and response initiatives. Anonymised data, will be reported to the Board of Governors in the Annual Safeguarding report.

PROCEDURE FOLLOWING A DISCLOSURE and/or REPORT

Disclosure and reporting are separate actions that the 'reporting party' may choose to take. Hartpury recognises the importance of minimising the number of times the 'reporting party' has to disclose an incident of sexual misconduct. The process below will be initiated following receipt by Hartpury of a disclosure of an incident of sexual misconduct.

A disclosure may relate to a 'responding party' who is or is not a member of the Hartpury community. A disclosure does not automatically result in a report to Hartpury being made under the Sexual Misconduct Policy. Hartpury respects the right of the 'reporting party' to choose how to take forward a disclosure. Following a disclosure, the 'reporting party' will be given their reporting options along with information on resources for specialist support. Hartpury recognises that the 'reporting party' may require time and reflection before making a decision. The 'reporting party' will be given the option and support to do one or more of the following:

- report to the Police;
- report to Hartpury under the Sexual Misconduct Policy;
- make no report of the incident; and/or
- receive advice on the support that is available.

HARTPURY HAS A DUTY TO REPORT ANY INCIDENTS OF SEXUAL MISCONDUCT OF STUDENTS UNDER THE AGE OF 18 TO THE APPROPRIATE EXTERNAL AGENCY IF A POTENTIAL CRIME HAS BEEN COMMITTED.

Staff will signpost anyone who discloses they have been targeted by someone engaging, or attempting to engage in a sexual act without the 'reporting party's consent or sexually touching the 'reporting party' without their consent to GRASAC so that they may access services provided. This will also allow the 'reporting party' to make an anonymous report and have evidence stored while they choose if they want to report to the Police. Staff will signpost the 'reporting party' to information from GRASAC on how to preserve evidence. Staff can make a referral to the GRASAC on behalf of the 'reporting party' with their agreement.

Staff who receive a disclosure that may amount to a breach of the Sexual Misconduct Policy must inform the Deputy Designated Safeguarding Leads as soon as practicable that they have received a disclosure and record this on MyConcern as appropriate. They may, if the 'reporting party' requests, omit the name of the 'reporting party' and/or 'responding party'. By informing the Wellbeing Team, anonymised information will be used for trend monitoring purposes and staff can seek support and advice regarding the disclosure if needed.

The 'reporting party' may choose to make a report to Hartpury under the Sexual Misconduct Policy with the intention of Hartpury initiating the investigation process set out in this policy. To make a report, the 'reporting party' may submit a written statement of the allegation to the DDSL indicating the 'responding party' and any witnesses. A report cannot be investigated if the 'reporting party' does not wish the substance of the allegation to be made known to the 'responding party'.

Before any action is taken by Hartpury, the 'reporting party' will be asked to attend an initial meeting with a member of the Wellbeing Team, during which the procedure for investigations will be explained and the details of the report will be confirmed. If the 'reporting party' is unwilling for the 'responding party' to be informed of the allegation against them, the investigation cannot proceed. A note of the initial meeting will be sent to the 'reporting party' who will be asked to confirm whether it is an accurate summary of the discussion and confirm whether they agree to participate in an investigation. Following receipt of a confirmed Report to Hartpury or a report to the Police, an IRM will be organised as soon as is practicable. Pending the IRM, the Wellbeing Team will initiate such steps as may be necessary to:

- ensure that the students involved receive appropriate academic and wellbeing support
- safeguard the health, safety and welfare of members of the Hartpury community;
- ensure that confidentiality is maintained as appropriate.

The decision to launch a formal investigation following a report can only be made at the IRM if supported/requested by the 'reporting party', and staff must not attempt to investigate the incident or inform the 'responding party' or any other student of the report or disclosure.

RESPONDING TO A REPORT and INITIAL REVIEW MEETING (IRM)

The IRM will be chaired by the Head Safeguarding & Wellbeing (or their nominee) and a Sexual Violence Liaison Officer (SVLO), who is an appropriately trained member of the Wellbeing Team. The purpose of an IRM is to assess support needs, consider how to protect the interests of all parties and members of Hartpury community who may be affected by the case and to agree next steps. The report will not be investigated at the IRM.

The membership of the IRM will depend upon the nature of the alleged incident and will be determined by the Head Safeguarding & Wellbeing (or their nominee). The membership may include, as a minimum:

- A Sexual Violence Liaison Officer;
- A senior representative of the academic department/s of the student/s named in the report.

During the IRM, the members will consider the academic, welfare and support needs of the 'reporting party' and of the 'responding party' and of any other members of the Hartpury community directly involved in the report and identify any actions required to ensure that those needs are met. This will include undertaking a risk assessment, conducted by the SVLO, in order to determine whether any precautionary measures need to be put in place in order to ensure that a full and proper investigation can be carried out (either by the police or Hartpury) and/or to implement measures to reasonably ensure the safety and wellbeing of those involved during an investigation carried out by the Police or Hartpury.

Precautionary measures may include:

- imposing conditions on the 'responding party' (for example, requiring the 'responding party' not to contact certain witnesses or requiring the 'responding party' to move accommodation or prohibiting the 'responding party' from going to certain places on the Hartpury campus at certain times of the day);
- suspending the 'responding party' (in accordance with the appropriate Hartpury policy - University Disciplinary Policy/Non-Academic Behaviour Management Policy

- Identify the members of staff within Hartpury with responsibility for supporting the 'reporting party' and 'responding party' and, where appropriate, inform them of the outcome of the IRM;
- Ensure that arrangements are in place to maintain confidentiality as appropriate;
- Review the involvement of external agencies (e.g. GRASAC and the Police);
- Decide/make recommendations about what the next steps should be and determine how to carry forward the decisions and/or recommendations that are made;
- Consider any other actions relevant to the alleged incident.

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

- The provision of further or different support to the students involved. The support measures may relate to academic, housing, finance, health and wellbeing matters.
- The imposition of precautionary measures on the 'responding party' pending the outcome of the criminal and/or disciplinary process;
- A recommendation that a suspension be imposed on the 'responding party' pending the outcome of criminal investigations/proceedings and/or internal investigations/disciplinary proceedings.
- A recommendation to the Vice Principal Resources or nominee that the alleged incident be investigated under this procedure;
- Appropriate communication with the parties involved;
- Collection of further information necessary to inform future management of the situation;
- A recommendation to the Vice Principal Resources or nominee that an investigation into an alleged incident that has already commenced should be suspended or terminated.

Head Safeguarding & Wellbeing (or their nominee) will be responsible for ensuring that any decisions or recommendations made at the IRM are recorded and acted upon. The risk assessment and any precautionary measures that are put in place will be reviewed regularly and amended as appropriate. Additional review meetings may be convened by the Head Safeguarding & Wellbeing (or their nominee) as they believe necessary.

Where either the IRM or the Vice Principal Resources determines that an alleged incident should not be considered under this procedure, the Head Safeguarding & Wellbeing (or their nominee) shall provide the 'reporting party' with written reasons for the determination and information about their right to request a review.

INVESTIGATING A REPORT UNDER THIS PROCEDURE

Where the IRM recommends that a report should be investigated under this procedure and the Vice Principal Resources or nominee agrees with that recommendation, the following process will apply.

The Head Safeguarding & Wellbeing (or their nominee) will seek to gather evidence as to whether or not a breach of Hartpury's Sexual Misconduct Policy has occurred.

Following the IRM, an investigation will be undertaken as quickly as possible. All parties involved will be expected to maintain appropriate levels of confidentiality. The 'reporting party' and 'responding party' will be informed that they must not make any contact with each other during the course of the investigation unless otherwise instructed by the investigator/s. Guidance on how to mitigate any potential contact is provided to both parties through a mutual 'No Contact' Arrangement. Additional precautionary measures will be implemented as appropriate.

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

The purpose of an investigation meeting is to provide each party with a full and fair opportunity to explain or present their version of events. Investigation meetings will be conducted with sensitivity. All students meeting with the investigator/s will be provided opportunities for breaks during the investigation meeting should they be required. All students involved in the investigation process have the right to attend any meetings accompanied for support by a member of the Hartpury community, such as a member of staff, by a Students' Union representative, a fellow student, a family member or friend. The accompanier is there to provide moral support and may not be a legal representative or advocate. The student is expected to speak on their own behalf; there is no automatic right for an accompanier to speak on the student's behalf and it is at the Hartpury's discretion as to whether the accompanier is permitted to address the meeting. Students will be advised of their right to be accompanied.

The order of investigation meetings is at the discretion of the investigator/s, but normally the first meeting will be held with the 'reporting party'.

The 'responding party' will receive written notification of the procedure being followed, a redacted copy of the original report submitted and any additional supporting documentation submitted by the 'reporting party'. The 'responding party' will be required to attend a meeting with the investigator/s. Prior to meeting with investigator/s, the 'responding party' will be required to submit a written response in reply to the documentation provided at least two working days before their scheduled investigation meeting. During this meeting, the procedure will be explained and the details of the allegation against them will be confirmed. The 'responding party' will be given a full and fair opportunity to explain or present their version of events in response to the allegation. The 'reporting party' and 'responding party' may identify witnesses for the investigator/s to contact. Witnesses will be required to keep the details of the investigation confidential. Witnesses (in all cases willing) will be required to submit a written statement for the investigation and may be asked to attend an investigation meeting at the discretion of the investigator/s. The witnesses' statements will be provided to the 'reporting' and 'responding' parties. The witnesses will not normally be provided with any investigation materials.

All students involved in the investigation process must submit any and all relevant evidence at the time of the investigation. All evidence submitted will be shared with the 'reporting party', 'responding party', investigator/s and the Wellbeing & Safeguarding Manager.

In all investigatory meetings, notes will be made and the interviewee will be asked to confirm that it is an accurate summary of the discussion. The interviewee may make any written comments about any section of the notes that they do not agree with. Copies of the notes, with any comments, will be retained by the interviewee, the investigator/s and the Head of Safeguarding and Wellbeing (or their nominee), these notes will not be shared with the other party. The investigator/s may hold additional meetings or consult with additional parties as necessary to obtain relevant information and evidence. All documentation is to be added to the relevant file on My Concern to ensure co-operation with judicial investigation process i.e. all handwritten notes, statements etc.

On the balance of probabilities, the investigator/s will determine whether the evidence available indicates a breach of the policy. The investigator/s can find:

- The evidence does not support a breach of the policy; therefore, no further action is required. In such an instance, the case will be dismissed and no disciplinary action will be taken, but continued support will be offered to both parties; Or
- The evidence does indicate a breach of the policy and further disciplinary action is required. In such an instance, the Investigator/s will be required to determine the categorisation of the breach (see section below) and follow the appropriate policy - University Disciplinary/Non-Academic Behaviour Management Policies.

CATEGORISATION OF MAJOR OR NON-MAJOR BREACHES OF THE SEXUAL MISCONDUCT POLICY

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

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

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

Non-major breach indicating a breach of the Sexual Misconduct Policy that would constitute an offence may include:

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

In the event the investigator/s find a non-major breach of the policy, the investigator/s will refer this to the Vice Principal Resources or nominee to consider sanctions under the University Disciplinary/Non-Academic Behaviour Management policies.

The circumstances and context of each case will be taken into account when determining whether a sanction/s should be imposed and if so, which sanction/s should be imposed and, where relevant, the timeframe for compliance. The following list provides examples of sanctions which may be imposed. The list is illustrative and is not exhaustive:

- A warning
- A permanent restriction on contact with a named person or person(s)
- A reasonable additional sanction given the nature of the incident.

If the 'responding party' fails to comply with the sanctions imposed by the investigator/s within the time specified they may be considered to be in breach of the ruling and consideration to whether this is considered an alleged major breach.

Major breach indicating a breach of the Sexual Misconduct Policy that would constitute an offence may include:

- engaging or attempting to engage in a sexual act without consent;
- kissing another person without consent where the presence of force is substantiated by the evidence;
- sexually touching an individual without consent;
- threatening or abusive behaviour of a sexual nature;
- pattern of coercive or controlling behaviour;
- recording, sharing and/or distributing intimate images or recordings of another person without their consent;
- instances where non-major Sexual Misconduct breaches are frequent or repeated or the 'responding party' fails to comply with disciplinary decisions or sanctions; or

- A conviction of a criminal offence or a Police caution in relation to behaviour that falls within the scope of the University's Sexual Misconduct Policy.

If the investigator/s determine that the misconduct is a major breach of the Sexual Misconduct Policy and a potential major offence under University Disciplinary/Non- Academic Behaviour Management policies, they will refer the matter to the Vice Principal Resources or nominee.

The investigator/s will provide an investigation report to the 'reporting party', the 'responding party' and the Head of Safeguarding and Wellbeing (or their nominee), explaining their written decision summarising their findings and considerations which led them to reach their decision and outlining any sanctions, recommendations or next steps required.

REQUEST FOR A REVIEW

Following the conclusion of the investigation, the 'reporting party' and/or 'responding party' may request a review of the determination reached by investigator/s in writing to the Pro-Vice Chancellor/Vice Principal FE within 14 days of notification of the investigation findings.

In the event an IRM concludes the report received does not meet the criteria for investigation by Hartpury, the 'reporting party' can request a review of that decision in writing to the Pro-Vice Chancellor/Vice Principal FE within 14 days of notification of that decision.

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

- Evidence that the investigator/s did not follow appropriate procedure in investigating the report and that this had a material effect on the investigation outcome, making it unsound; and/or
- Substantial and relevant new information which the 'reporting party' or 'responding party' was unable to provide previously for a good reason and that this had a material effect on the investigation outcome, making it unsound.

The review process cannot be used to challenge the classification of misconduct as a non- major or major breach of the Sexual Misconduct Policy.

If the 'responding party' is found to have breached the Sexual Misconduct Policy classified as a non-major breach, the 'responding party' has a right to:

- Request a review of the investigation decision in line with the grounds set out above; the 'reporting party' does not have a right to appeal a disciplinary decision.

The Pro-Vice Chancellor/Vice Principal FE or their nominee, may choose to undertake the review if they are independent of the case or will identify a senior officer, independent of the case to undertake the review (reviewer). The reviewer will not re-investigate the report. The request will be reviewed on the basis of the documentation provided by the student and that held by the investigator/s. The reviewer may seek further information if necessary.

At the discretion of the reviewer, during the review period any sanctions determined by the investigator/s will remain in force until the review decision determines grounds for these to be overturned.

If the reviewer decides the review is upheld for one or more reasons, they may decide either:

- To refer the case back to the original investigator/s for continued investigation in light of new evidence or in a procedurally correct manner;
- Require a new investigation by new investigator/s; or
- To specify appropriate recommendations to annul, amend, confirm or reduce the imposed sanctions to the Vice Chancellor & Principal.

If the reviewer decides that the case has been handled fairly and the outcome is reasonable, the review request will be dismissed.

If both parties submit a review request a single Reviewer will review both requests. The review is confined to consideration of whether the grounds for the review are demonstrated or not. The review will not re-investigate the report.

At the point a request for review is accepted, the other party will be informed of the review and the timeline to be informed of the outcome.

Both parties will be informed of the outcome of the review request within 28 days of receipt. In all instances the decision reached by the review is final. In the event the reviewer determines that a new investigation takes place, an additional review request will not be available. This procedure provides both parties a single opportunity to request a review.

EQUALITY, DIVERSITY AND INCLUSION

As with all Hartpury policies and procedures, due care has been taken to ensure that this policy is appropriate to all members of staff regardless of their age, disability, ethnicity, gender, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation and transgender status.

The policy will be applied fairly and consistently whilst upholding Hartpury's commitment to providing equality to all. If any employee feels that this or any other policy does not meet this aim, please contact the HR Department.

Hartpury is committed towards promoting positive mental health by working towards the MINDFUL EMPLOYER Charter. Hartpury aims to create a culture of support within the workplace where employees can talk about mental health problems without the fear of stigma or discrimination.

APPROVAL & REVIEW CYCLE

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| DATE LAST APPROVED | September 2021 |
| POLICY OWNER | Vice Principal – Resources |
| APPROVING COMMITTEE | SMT |
| STATUS | Approved |
| NEXT REVIEW DATE | September 2023 |