

Student Sexual Misconduct Policy

9th September 2024

Document Control

Current Version Number	2
Date of Last Review	NA
Date of Next Review (normally every two years)	September 2025

Amendment History

Version No.	Date	Summary of Amendment	Author
2	090924	Revised dates, roles, centres	C Whitmore

Document Reviewers

Name	Role	Policy Responsibility
SLT	ONCAMPUS Leadership Team	Consulted
Mike Goodwin	GCOO	Accountable
Claire Whitmore	Director of Student Experience and Safeguarding	Responsible
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Relevant Documents

Policies and Procedures CEG Safeguarding and Prevent Policy (including Child Protection) Site Leadership Emergency Management Plan Central Leadership Emergency Management Plan ONCAMPUS Complaints Policy ONCAMPUS Disciplinary Policy ONCAMPUS Attendance Policy
Legislation and Government Guidance This policy, and its associate procedures, has been drawn up on the basis of UK legislation, policy and guidance; it is applied, in whole or in part, to all CEG centres taking into account local legislation which may substitute where applicable UK law.

UK: Equality Act 2010

Approved by:	Signature	Date
ONCAMPUS SLT	M Goodwin	09/09/24

This policy concerns issues relating to sexual misconduct, including sexual harassment and sexual violence. If you are affected by any of the issues raised, there are services that can help:

Staff Employee Assist Programmes:

- Support is available to UK based CEG staff through the Employee Assist Programme (EAP) 0800 030 5182. A free and confidential service
- Details for the International EAP are as follows (the numbers are different depending on the location and can be accessed once an account is created): <https://www.guidanceresources.com> ; Organisational Web ID – HealthassuredEAP

Support services and helplines: refer to Appendix A for information about local support services.

Please note:

- This Policy applies to all students (as further described in the Sexual Misconduct Procedure), regardless of whether the alleged sexual misconduct takes place on **ONCAMPUS** premises.
- Students who wish to report sexual misconduct by staff should raise the matter through their Centre Director
- In circumstances where a student has a complaint concerning the behaviour of a member of staff, the matter should be dealt with under the Student Complaints Procedure.

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1. Statement of Commitment and Values

1.1 **ONCAMPUS** recognises and understands that:

- Sexual misconduct, including sexual harassment and sexual violence, are a significant public health and social problem across society and the Higher Education sector, and that incidents may occur anywhere
- Sexual misconduct can have a devastating impact on those who experience it, and cause significant physical and psychological harm as well as being a violation of human dignity. **ONCAMPUS** will therefore ensure that those reporting sexual misconduct are taken seriously and treated with dignity and respect.

1.2 **ONCAMPUS** is committed to promoting and ensuring, through a whole-CEG approach, an inclusive, positive and safe cultural environment for all, in which all members of its community – students and staff - can flourish and be equally valued and respected, and in which any and all forms of sexual misconduct are not tolerated and individuals are supported and taken seriously.

1.3 **ONCAMPUS** expects that all its members will take responsibility for building and maintaining an inclusive, equal, positive and safe cultural environment for all.

1.4 **ONCAMPUS** is committed to:

- ensuring effective prevention and effective response to sexual misconduct when incidents occur
- promoting: healthy positive relationships based on mutual respect and clear consent; social norms which do not tolerate any form of sexual misconduct; a culture in which bystanders are empowered to challenge problematic behaviour; and a culture in which all members feel able to speak out and will be supported and taken seriously.

2. Overarching Principles

2.1 **ONCAMPUS** recognises that as an educational institution we have moral and legal duties as well as civic responsibility to prevent and respond to sexual misconduct, and also to learn from sector best practice in policy, research, evidence-based approaches in order to drive continuous improvement.

2.2 The **ONCAMPUS** Executive Team recognises that it must actively promote a culture of zero tolerance with regard to any form of sexual misconduct and ensure that there are arrangements in place to support all students who experience it. This will include ensuring that all senior leaders are appropriately trained.

2.3 **ONCAMPUS** recognises that the immediate priority upon disclosure of any experience of sexual misconduct, whether current or historic, is the safety and welfare of the disclosing party.

2.4 **ONCAMPUS** will respect the right of the individual making a disclosure to choose how to proceed and we will provide clear and consistent advice as to support and reporting options. However, in certain circumstances, where there is a clear and immediate risk to the health, safety and well-being of the disclosing party or evidence of a criminal act, then **ONCAMPUS** does reserve the right to refer the matter to the police.

2.5 **ONCAMPUS** intends to create a safe environment through its commitment to education, training and raising awareness about sexual misconduct.

2.6 **ONCAMPUS** will respond to reports of sexual misconduct in accordance with this Policy and the Sexual Misconduct Procedure, which is included as Appendix A.

2.7 **ONCAMPUS** recognises and is committed to providing supportive and fair processes and specialist training for any staff involved in:

- Investigatory and disciplinary processes, including review; and
- Supporting both the reporting and responding parties.

2.8 **ONCAMPUS** will hold accountable any individual who has committed sexual misconduct. This may include facing major disciplinary action, including withdrawal and reporting to the relevant visa authority.

3. Application of Policy

3.1 This Policy applies to all students (as further described in the Sexual Misconduct Procedure), regardless of whether the alleged sexual misconduct takes place on **ONCAMPUS** premises.

3.2 Students who wish to report sexual misconduct by staff should raise the matter through their Centre Director. If the report involves the Centre Director, the student should contact their Head of Student Services.

OR In circumstances where a student has a complaint concerning the behaviour of a member of staff, the matter should be dealt with under the Student Complaints Procedure.

3.3 Students and staff may also seek the support of the Designated Safeguarding Lead (DSL) in their centre or the central safeguarding team. The DSL is available to provide initial support for all students and staff who experience and/or wish to report an incident of sexual misconduct (see section 2 of the Procedure).

3.4 Members of staff who have a complaint against a student should contact their line manager in the first instance.

APPENDIX A Support Agencies and Helplines: Sexual Harassment

Support for staff

Staff Employee Assist Programmes:

- Support is available to UK based CEG staff through the Employee Assist Programme (EAP) 0800 030 5182. A free and confidential service
- Details for the International EAP are as follows (the numbers are different depending on the location and can be accessed once an account is created): <https://www.guidanceresources.com> ; Organisational Web ID – HealthassuredEAP

Emergency Services Contact Details:

Amsterdam: general police number for non-urgent cases would be 0900 – 8844 (from The Netherlands). From outside NL it is 0031 34 357 8844

Ireland: Emergency Services 999/112; Tralee Garda Station 00353667102300; 00353864085963

Paris: Dial 112

UK: usually 101 for Police. If, however, it is felt there is an immediate risk to the student from the information held, the police should be contacted using the emergency number 999

Local Support:

Amsterdam:

- Police – emergency number: 112, non-emergency (to make an appointment or in case of questions): 0900-8844
- Comprehensive website with various information and contact list: <https://findahelpline.com/nl/topics/sexual-abuse>
- Sexual Assault Centre: <https://centrumseksueelgeweld.nl/csg-en/> or call 0800-0188
- Victim Support Netherlands: <https://www.slachtofferhulp.nl/english/> and here specifically for sexual assault info: <https://www.slachtofferhulp.nl/gebeurtenissen/seksueel-misbruik-geweld/>
- De Luisterlijn: <https://www.deluisterlijn.nl/> (24/7 free phone support helpline)
- Suicide prevention line: 113
- Fier helpline (for anyone who needs support over the phone or a chat): <https://www.fier.nl/> or call 088-2080000
- De Kindertelefoon (for those under the age of 18): <https://www.kindertelefoon.nl/> or call 0800-0432
- MIND Korrelatie (anonymous support line): <https://mindkorrelatie.nl/> or call 0900-1450
- Alles oké? (support line for young people): <https://www.allesoke.nl/> or call 0800-0450
- Emergency Crisis Centre: <https://spoedeisendepsychiatrieamsterdam.nl/welcome-to-the-spa/> or call 020-523-5433

Ireland:

Dublin Rape Crisis Centre:

- a free and confidential listening and support service for anyone who has been raped, sexually assaulted, sexually harassed or sexually abused at any time in their lives
- Freephone 24-Hour National Helpline at 1800 77 8888, at any time of day or night
- It is also possible to email to counselling@rcc.ie (note that e-mails can only be answered during office hours). For those who are deaf or hard of hearing, they provide a text service, operating Mon-Fri from 8am to 6:30pm, at 086-8238443
- A [webchat service](#) available Mon-Fri, 10am to 5pm (excluding Bank Holidays).
- If English is not the first language, they offer a [Helpline Interpreting Service](#), Mon-Fri, 8am-6:30pm, which provides live interpreting over the phone in more than 200 languages
- <https://www.drcc.ie/services/helpline/>

Kerry Rape and Sexual Abuse Centre

- **Email:** kerryrapecrisis@krsac.com
- **Helpline Freephone:** 1800 633 333

Women's Aid

- The Women's Aid 24hr National Freephone number: 1800 341 900
- The service also supports family members, friends, and professionals who have concerns about a person, they know or are working with, who might be experiencing domestic violence and abuse

The Helpline provides support to callers where English is not their first language, through their [Language Line facility \(available 24 hours a day, 7 days a week\)](#) and for women who are deaf or hard of hearing through its [Text Service facility \(operational daily, 8am-8pm\)](#).

Samaritans Ireland

- 24 hours a day, seven days a week, on the freephone helpline number 116 123 and email jo@samaritans.ie.
- <https://www.samaritans.org/ireland/samaritans-ireland/about/governance-and-structure/contact-us/>

Paris: <https://www.service-public.fr/particuliers/vosdroits/F1043?lang=en>

UK :

- Support for anyone who has experienced sexual abuse is available from The Sexual Assault Referral Centre (SARC) if based in the UK. They offer medical, practical, and emotional support to anyone who has been sexually assaulted or raped. They have specially trained paediatricians / Forensic Nurse Examiners (FNE) and support workers to care for affected individuals. <https://www.thesurvivorstrust.org/sarc>
- The 24-hour freephone National Domestic Abuse Helpline, run by Refuge, on 0808 2000 247
- [Talk to us on the Phone | Samaritans](#) The Samaritans are open every day of the year, you can phone them for free on 116 123 or email jo@samaritans.org (response time: 24 hours)
- <https://giveusashout.org/SHOUT> is a free, confidential, 24/7 text messaging support service for anyone who needs support
- <https://www.mind.org.uk/information-support/helplines/> Mind, the mental health charity, offers support by phone at 0300 123 3393 or online
- call NHS 111 or get help from 111 online
- the police, or dial 101
- in an emergency, dial 999

- <https://www.nhs.uk/mental-health/> NHS mental health information and support

APPENDIX B Sexual Misconduct Procedure

1. Introduction

1.1 This Sexual Misconduct Procedure (the “Procedure”) sets out how **ONCAMPUS** will deal with alleged incidents of Sexual Misconduct committed by student members of the **ONCAMPUS** community. This Procedure is part of the **ONCAMPUS** Student Sexual Misconduct Policy (the “Policy”) and should be read in conjunction with that Policy.

1.2 A glossary of terms used in this Procedure is set out at Appendix D. Definitions of sexual misconduct are set out on sections 13.3 and 13.4 of this Procedure.

2. Scope

2.1 This Procedure applies to you if you are a student and you have experienced sexual misconduct from another student. If you wish to report an incident of sexual misconduct by a member of staff, you should raise the matter with your Centre Director.

2.2 This Procedure applies to you if you are a student and an allegation of sexual misconduct has been made against you by another student.

2.2 This Procedure applies to all Reported Incidents of Sexual Misconduct. It does not cover incidents of non-sexual harassment or misconduct which should be considered under the **ONCAMPUS** Complaints Policy.

2.3 If a conflict arises between this Procedure and any other procedures of **ONCAMPUS**, then the Director of Student Experience and Safeguarding shall consult with the Student Complaints Team to determine which procedure will be used.

3. Management of this Procedure

The day-to-day management of this Procedure will be undertaken by the Director of Student Experience and Safeguarding.

4. Police Investigations and Judicial Proceedings

4.1 This Procedure is designed primarily to protect and assist students who experience and wish to report incidents of sexual misconduct to **ONCAMPUS**, and also to provide support and guidance in determining the course of action that is most appropriate for them. In this procedure, a student who wishes to report is known as the Reporting Party.

4.2 Where a criminal investigation or judicial proceedings are ongoing or are likely to commence in respect of a Reported Incident(s), **ONCAMPUS** will not normally investigate the Reported Incident(s) and will suspend any ongoing investigation, but it will undertake any necessary precautionary action.

4.3 A decision by the Police or Crown Prosecution Service (or other local law enforcement agency) to take no further action in relation to a criminal matter, or an acquittal at a trial, does not preclude **ONCAMPUS** from taking action under this Procedure and does not mean the Reporting Party has made a vexatious or malicious complaint or that the complaint is unfounded.

4.4 In all cases, **ONCAMPUS** will advise the Reporting Party that it does not have the legal investigatory powers of the Police (or relevant law enforcement agency) and cannot make a determination on criminal guilt. An internal investigation is focused exclusively on whether, on the balance of probability, an act of sexual misconduct breaching this Procedure has occurred. **ONCAMPUS**'s internal processes and this Procedure cannot, therefore, be regarded as a substitute for a Police investigation or criminal prosecution.

4.5 Where a Responding Party has been convicted of a criminal offence or accepts a caution from the relevant law enforcement agency in relation to behaviour that falls within the scope of the Procedure, this will be considered by the Investigating Officer (IO) when reviewing the case.

5. Support

5.1 **ONCAMPUS** is committed to providing support for those members of its community affected by sexual misconduct.

5.2 **ONCAMPUS** will provide information on support resources available and offer interim measures as appropriate to the Reporting Party, the Responding Party, and to any witnesses involved in any incidents and Reported Incident(s) of Sexual Misconduct.

5.3 Support resources are available to any member of **ONCAMPUS** who makes a:

- Disclosure, regardless of their choice to do so anonymously or to whom they disclose; or
- Formal complaint of sexual harassment or misconduct against another student, regardless of whether they also make a report to the Police.

Internal support is provided by the centre DSL in the first instance. For external support and specialists, refer to Appendix A.

6. Monitoring

6.1 **ONCAMPUS** will maintain a confidential central record of formal reported incident(s) covered by this procedure, including anonymous disclosures, to engage effectively in prevention and response initiatives.

6.2 The Director of Student Experience and Safeguarding will ensure that the Executive Board (and any relevant sub-committees) are regularly provided with anonymised data concerning the cases that are dealt with under this Procedure.

7. Reported Incident(s)

7.1 A Reporting Party can take two separate actions, either 1) make a Disclosure; and/ or 2) make a formal complaint of sexual misconduct and/or harassment. **ONCAMPUS** recognises the importance of minimising the number of times the Reporting Party has to disclose an incident of sexual misconduct.

7.2 A disclosure is made when someone tells a member of **ONCAMPUS** staff that they have experienced sexual misconduct. A disclosure can be made in person, online or via other means such as phone or email and may be made in a variety of ways, for example:

- To a member of staff
- Through a request for mitigation

- Through a formal process, such as an academic appeal, complaint, or misconduct process
- To another student, friend or family member, who may subsequently bring the matter to the attention of **ONCAMPUS**.

7.3 The person who has chosen to disclose does not need to provide the full details of their experience if they do not wish to. They will not be pressured to make a formal complaint.

7.4 Where a member of staff has received a disclosure in person or via other means, they may submit a disclosure on behalf of the person who has disclosed, with their permission.

7.5 If the incident is historical, the person who has experienced it can still disclose it to **ONCAMPUS** and receive support.

7.6 A disclosure, for the purposes of this Procedure, may only relate to a Reporting Party who is (or is thought to be) a student member of the **ONCAMPUS** community. A disclosure does not automatically result in a complaint to **ONCAMPUS** being made under the Procedure. **ONCAMPUS** respects the right of the Reporting Party to choose how to take forward a disclosure. When deciding how to take forward a disclosure, a Reporting Party will be advised upon the timescales recommended by the local Sexual Assault Referral Centre or equivalent (SARC) if forensic evidence is to be collected.

7.7 A disclosure may be made anonymously. In this case, **ONCAMPUS** would not be able to act on the information or respond to the Reporting Party in person. It would not be possible to identify any individuals from the data collected in this form; **ONCAMPUS** would use the information provided to help understand what kind of incidents were taking place within our community and take positive action; and a report on the data collected would be considered by the **ONCAMPUS** SLT and the Executive Board.

7.8 Following a disclosure, the Reporting Party will be immediately given information on resources for specialist support (including the external support available at the SARC) and informed of their reporting options. **ONCAMPUS** recognises that the Reporting Party may require time and reflection before making a decision.

7.9 **ONCAMPUS** staff are encouraged to signpost anyone who discloses a relevant incident of sexual misconduct to the local SARC so that they may access the external services and guidance it provides. 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. Where relevant, staff are also encouraged to signpost the Reporting Party to information from the SARC on how to preserve evidence. Staff can make a referral to the SARC on behalf of the Reporting Party with their agreement. In accordance with the Safeguarding and Prevent (including Child Protection) Policy, staff who receive a disclosure must inform the DSL, or Centre Director in their absence, who in turn must inform the Director of Student Experience and Safeguarding, as soon as is practicable. They may, if the Reporting Party requests, omit the name of the Reporting Party and/or Responding Party.

7.10 No formal action can be taken where Reporting Party wishes to remain anonymous. If the Reporting Party is unwilling for the Responding Party to be informed of the allegation against them, an investigation cannot proceed. However, in certain circumstances, where there is a clear and immediate risk to the health, safety and well-being of the Reporting Party or evidence of a criminal act, **ONCAMPUS** reserves the right to refer the matter to the Police.

7.11 The Reporting Party will be given support from a Student Liaison Officer (SLO). The Responding Party will also be given the support of a different SLO.

7.12 There are several options available to the person who has disclosed their experience. They can choose the level and types of support that are right for them. The Reporting Party will be given the option and support to do one or more of the following:

- Undertake an informal resolution: this option is dependent on the person alleged to have committed the misconduct being willing to participate. The SLO assigned to the person who has disclosed and the SLO assigned to the Responding Party will facilitate an informal resolution in collaboration with services such as a university partner wellbeing support services where appropriate
- Make a report to the Police: in this case no disciplinary action will normally be taken by **ONCAMPUS** whilst a Police investigation and legal proceedings are taking place. Support will however still be available from the wellbeing staff at the relevant centre (and university partner where appropriate)
- Disclose to the local Sexual Assault Referral Centre (SARC) or similar local body
- Take no further action at this time: in this case advice will be provided regarding the preservation of evidence which may be needed if they subsequently decide to make a report to the Police or to submit a formal complaint to **ONCAMPUS**. They will also be informed of the ongoing support available to them from **ONCAMPUS** and other organisations
- Make a formal complaint to **ONCAMPUS**: a formal complaint is different to disclosure; it is a document informing **ONCAMPUS** that something has happened and that the person who has made the complaint wishes **ONCAMPUS** to take action. The person who has submitted the complaint is referred to as the Reporting Party, and the person who is alleged to have committed the misconduct is referred to as the Responding Party. If the person who has disclosed chooses this option they will be asked to confirm that they wish **ONCAMPUS** to proceed with a formal investigation. Support will be available to both parties.

8.0 Informal Resolution:

8.1 Informal resolution can only go ahead on the mutual agreement of both parties. The SLOs will follow up to check that the informal resolution has taken place, however as the allegation has not been proven they cannot enforce compliance.

8.2 Informal resolution may include, but is not restricted to, the following outcomes:

- Written apologies
- Attendance at awareness sessions
- Participation in behavioural change programmes
- No contact agreements
- Any other penalties which are not punitive in nature.

9.0 Where the Reporting Party chooses to make a complaint:

9.1 The complaint must be submitted in writing. If a written disclosure has already been made, this should be referred to in the first instance; it is important to minimise the number of times the Reporting Party is asked to provide detail. The form can be completed by the Reporting Party, or if they prefer, someone can complete it on their behalf. The SLO and wellbeing support services can provide help in completing the form.

9.2 The report form does not need to include in-depth detail about the experience. There does however need to be enough information so that **ONCAMPUS** can take the complaint forward and understand what has happened including:

- the Responding Party (if known);
- details of the Reported Incident(s). At this stage, it is not the job of the Reporting Party to 'prove' the allegation. This is a matter for the subsequent investigation. What **ONCAMPUS** requires initially are the fullest details of the incident that can reasonably be provided
- details of witnesses (if any).

9.3 The complaint will be referred to the Central Leadership Emergency Team (CLET).

9.4 **ONCAMPUS** will not take any action without the involvement of the Reporting Party unless there is an immediate threat to safety.

9.5 The Reporting Party has the right to withdraw their complaint and to stop the formal student disciplinary process at any time.

10. Initial steps on receipt of a complaint:

10.1 If the Reporting Party confirms that they wish to make a Complaint, the local DSL will inform the Director of Student Experience and Safeguarding, who will determine whether a CLET should be convened based on the information available, or whether further information may need to be gathered before a decision can be made on whether a CLET is necessary.

10.2 Where the Director of Student Experience and Safeguarding determines that sufficient information exists, and it is relevant to do so, they will make arrangements for a CLET meeting in accordance with Section 11. A Case Team plus Investigating Officer (IO) will be appointed at this meeting.

Pending a meeting of the Central Leadership Emergency Team (CLET), the local DSL shall take such steps as may be necessary to:

- ensure both the Reporting Party and the Responding Party, together with any witnesses (as relevant), receive appropriate academic and pastoral support, including access to a Student Liaison Officer, wellbeing and related services; and
- ensure that confidentiality is maintained.

10.3 The SLO for the Reporting Party will inform the Reporting Party that an IO has been appointed, and will arrange a meeting between the SLO and Reporting Party to discuss the next steps in the **ONCAMPUS** Disciplinary process.

10.4 Investigation of Complaint: the IO will follow the steps set out in Section 9.

11. Central Leadership Emergency Team (CLET) Meeting

11.1 Following a Report or Complaint, the Reported Incident(s) will be considered at a CLET meeting.

11.2 The CLET may be chaired by the Director of Student Experience and Safeguarding (or their delegate in their absence).

11.3 The purpose of a CLET is to assess support needs, consider how to protect the interests of all parties and members of the community who may be affected by the case, and to agree next steps (the substance of any Report will not normally be considered at the CLET).

11.4 The membership of the CLET Case Team will depend upon the nature of the Reported Incident(s) and will be determined by the CEG Safeguarding and Prevent Lead. The membership must include, as a minimum, 3 of the following role holders:

- Group Chief Operating Officer
- CEG Safeguarding and Prevent Lead: Director of Student Experience and Safeguarding
- Chief Academic Officer (or nominee)
- Director of Global Study Centres (or nominee)
- Director of Operations
- Group General Counsel; and
- A senior representative from the Centre(s) of the Reporting Party/Responding Party (as relevant).

11.5 In addition, consideration will be given to the contribution of external stakeholders who are actively involved in supporting the student(s) affected. This may include, but is not limited to, information provided by representatives from the partner university, the local SARC or the Safeguarding Manager based within the local Police force.

11.6 During the CLET, the members will:

11.6.1 consider the academic, welfare and support needs of the Reporting Party, of the Responding Party, and of any other members of the **ONCAMPUS** community directly involved in the Reported Incident(s), as well as the welfare and support needs of those involved in the Disclosure, and identify any actions required to ensure that those needs are met; and

11.6.2 undertake a risk assessment in order to determine whether any precautionary measures need to be put in place in order to:

- ensure that a full and proper investigation can be carried out (either by the Police or **ONCAMPUS**) and/or
- protect the Reporting Party, the Responding Party, or any others as deemed necessary, whilst the allegation is being dealt with as part of a criminal process or a disciplinary process.

11.6.3 precautionary measures, may include:

- imposing conditions on the Responding Party as stipulated in a precautionary contract; and/or
- suspending the Responding Party from any class or classes and/or excluding the Responding Party from any or all **ONCAMPUS** facilities, grounds and premises, until such a time as any criminal proceedings and/or **ONCAMPUS** disciplinary proceedings have concluded; and/or
- notwithstanding the Responding Party's rights under their **ONCAMPUS** Accommodation Contract, requesting that the Responding Party moves to alternative accommodation (where relevant).

11.6.4 identify the members of staff within **ONCAMPUS** with responsibility for supporting the Reporting Party and Responding Party;

11.6.5 ensure that arrangements are in place to maintain confidentiality;

11.6.6 review the involvement of external agencies;

11.6.7 determine what next steps should be taken and how to carry forward the decisions and/or recommendations that are made; and/or

11.6.8 consider any other actions relevant to the Reported Incident(s) in accordance with the Complaints Procedure/ Disciplinary Procedure (as relevant).

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

- the provision of further or different support to the parties involved. The support measures may relate to health and well-being, academic, housing, or finance matters;
- the recommendation of precautionary conditions (as explained above) on the Responding Party pending the outcome of the criminal and/or disciplinary process;
- a recommendation that the Reported Incident(s) set out in the Report be investigated in accordance with this Procedure;
- appropriate communication with the parties involved; and/ or
- collection of further information necessary to inform future management of the situation.

11.8 Where the Reporting Party has proceeded with a Police investigation, the CLET will confirm this and will normally suspend proceedings, pending the outcome of any criminal investigation or judicial proceedings. However:

- the fact that criminal proceedings have been instituted or have concluded does not preclude the **ONCAMPUS** from taking its own disciplinary action, if it is thought fitting or necessary to do so
- the fact that the Police are unable or unwilling to proceed does not preclude **ONCAMPUS** from taking its own disciplinary action
- a case which does not progress through legal channels, where a decision to take no further action has been made, and/or a 'not guilty' verdict has been returned, does not mean that the person has made a malicious or vexatious report
- the fact that criminal proceedings have returned a 'not guilty' verdict does not preclude **ONCAMPUS** from taking its own disciplinary action.

11.9 Where the CLET proceedings have been suspended, the CLET Case Team will be reconvened after the conclusion of a criminal investigation or judicial proceedings to recommence the **ONCAMPUS** processes under this Procedure. If a student has been convicted of a criminal offence or accepts a Police caution in relation to behaviour that falls within the scope of the **ONCAMPUS** Student Sexual Misconduct Policy, then **ONCAMPUS** will accept this as conclusive evidence that the behaviour took place. It may not be necessary for a further full investigation to take place and the complaint will be deemed proven.

11.10 The Director of Student Experience and Safeguarding will be responsible for ensuring that any decisions or recommendations made at the Case Team meetings are recorded and acted upon, liaising with relevant **ONCAMPUS** managers as appropriate within the established institutional and academic governance arrangements.

11.11 The risk assessment and any precautionary measures that are put in place will be reviewed regularly by the Director of Student Experience and Safeguarding and amended as appropriate. Additional review meetings may be convened by them as they believe necessary.

11.12 Where the Case Team determines that a Reported Incident(s) or Complaint should not be investigated in accordance with this Procedure, for example if no case to answer is identified, the centre representative shall provide the Reporting and Responding Party with reasons for the

determination and information about their right to seek a review or challenge the decision under the Student Complaints Policy. This will be done through a face to face or online meeting and subsequently confirmed in writing through an outcome letter. The Case Team may make suggestions to either Party regarding actions they might undertake, such as seeking support via wellbeing support services or attending awareness sessions. If it is appropriate and necessary to make such suggestions, they will be communicated to the relevant Party via their SLO and an outcome letter will be issued. This will confirm the outcome and the Reporting Party will be informed that if they wish they can submit a complaint to **ONCAMPUS**. Both parties will be informed of the ongoing support available to them.

12. Investigation of a Report

12.1 Where the Case Team recommends that a Report or Complaint should be investigated for a potential breach of this Policy, an Investigating Officer (IO, usually a member of the Centre Senior Leadership Team) will be designated. Both the Reporting and Responding Party will be notified and the specific allegation will be clearly communicated to both parties. The IO will seek to gather evidence as to whether or not a breach of the Disciplinary Procedure has occurred.

12.2 The IO will act promptly and tactfully, observing confidentiality at all times and will take all appropriate measures to provide a safe, comfortable and supportive environment in which to discuss the Reported Incident(s) or Complaint with the Reporting Party, the Responding Party, and any witnesses. At no time will the Reporting Party and Responding Party be present at the same time. The IO may also consult external parties to seek specialist advice as required while ensuring that confidentiality is maintained.

12.3 At the start of the investigation process, the Reporting Party will be required to attend an investigative meeting with the IO, during which the procedure to be followed will be explained, and the details of the Reported Incident(s) will be confirmed. Ideally the meeting should take place in person, but if appropriate the meeting could be held by video call or telephone. If the Reporting Party is unwilling for the Responding Party to be informed of the allegation against them, an investigation cannot proceed. A full written record of the meeting will be kept and shared with the Reporting Party, who will be asked to confirm whether it is an accurate summary of the discussion. The Reporting Party can be accompanied by another stakeholder in a supportive capacity, but not normally by someone acting as an advocate. Disabled students may also be accompanied by a support worker e.g. sign language interpreter or mental health worker/disability adviser as appropriate to their needs.

12.4 The IO will also meet individually with any potential witnesses. A full written record of meetings will be kept and shared with the witnesses, who will be asked to confirm whether they are an accurate summary of the discussion. A witness can be accompanied by another stakeholder in a supportive capacity, but not normally by someone acting as an advocate. Disabled students may also be accompanied by a support worker e.g. sign language interpreter or mental health worker/disability adviser as appropriate to their needs.

12.5 On receipt of the confirmed records of the discussions from the Reporting Party and any witness(es), an investigation will be undertaken as quickly as possible and will normally begin within 5 working days of the final meeting with the witness(es) (or, where there are no witnesses, the meeting between the IO and the Reporting Party). All parties involved will be expected to maintain appropriate levels of confidentiality.

12.6 Depending on the circumstances, it is likely that the Reporting Party and the 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 IO.

12.7 The Responding Party will receive written notification of the allegation(s) made against them, be informed of the procedure being followed, and asked to attend a meeting with the IO. During this meeting the procedure will be explained and the details of the allegation(s) 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 Responding Party can be accompanied by someone in a supportive capacity (for example a friend or family member), but not normally by someone acting as an advocate. Disabled students may also be accompanied by a support worker e.g. sign language interpreter or mental health worker/disability adviser as appropriate to their needs

12.8 In all investigatory meetings, a record 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 record that they do not agree with. Copies of the confirmed record, with any comments, will be retained by both the interviewee and the IO.

12.9 The IO may hold additional meetings or consult with additional parties as necessary to obtain relevant information and evidence.

12.10 The IO will produce a report outlining the factual details of the case and will deliver this to the Case Team. Following its assessment, the Case Team will either:

- decide, in accordance that no further action is (for example, because there is insufficient evidence that the Reported Incident(s) took place). In such an instance the case will be dismissed and no disciplinary action will be taken; or
- decide that further action/investigation is required.

During its assessment, the Case Team may identify potential breaches of other **ONCAMPUS** Policies and Regulations in addition to potential breaches of the Student Sexual Misconduct Policy.

13 Breaches of the ONCAMPUS Disciplinary Policy and Procedure

13.1 If, on completion of the investigation, the IO determines that the Reported Incident(s) or Complaint, on the balance of probability, is a proven Offence under this Procedure, the IO will present the case to the Case Team to decide whether the incident does constitute a breach of the Procedure and if so, whether it should be treated as a Minor or Major Offence.

13.2 When making their decision, the Case Team will take into account the nature of the Reported Incident(s), the evidence available and any mitigation present to determine whether:

- the case will be dismissed
- the Reported Incident(s) or Complaint is classified as a potential Minor Offence, or
- the Reported Incident(s) or Complaint is a potential Major Offence.

A list of the types of behaviour which may be considered to constitute a Minor Offence and a list of the types of behaviour which may be considered to constitute a Major Offence are set out below.

The lists are illustrative only and are not exhaustive.

13.3 Under this Procedure, sexual misconduct breaches that would normally constitute a Minor Offence include:

- kissing another person on the hand or cheek without consent where there is no sexual element or other harassing behaviours involved;
- making a single one-off remark of a sexual nature;
- inappropriately showing sexual organs to others where the act is not focused upon any individual;
- watching pornography or looking at sexualised imagery whilst on **ONCAMPUS** premises, whether using personal or **ONCAMPUS** equipment beyond that required by legitimate, academically-motivated activity;
- participating in any sexualised commentary about others online or in person.

13.4 Under this Procedure, sexual misconduct breaches that would normally constitute a Major Offence may include:

- engaging or attempting to engage in a sexual act without consent;
- kissing another person without consent where there is any sexual element;
- touching others inappropriately;
- threatening or abusive behaviour of a sexual nature;
- recording or sharing intimate images or recordings of another person without their consent;
- instances where minor sexual misconduct is frequent or repeated even once or the Responding Party fails to comply with disciplinary decisions or sanctions;
- any humiliation or participation in the humiliation of anyone (in person or online) who has reported sexual misconduct.

13.5 If, on completion of the investigation under Section 12 of the Procedure, the Case Team determines that the Reported Incident(s) or Complaint, on the balance of probability, is a proven offence under the Disciplinary Procedure, the Case Team will apply a penalty from those permitted by this policy.

13.6 The circumstances and context of each case will be taken into account when determining whether a penalty(s) should be imposed and if so, which penalty(s) should be imposed and, where relevant, the timeframe for compliance. The penalties/actions permitted under this policy are:

- no further action;
- informal resolution (see 8.0)
- a caution, which means that no penalty is imposed, but if the student is found guilty of the same or similar offence on a subsequent occasion in the following 12 months (or some other specified period) they will then be dealt with for both offences;
- a written warning;
- a behavioural contract;
- compulsory attendance at an appropriate workshop(s);
- restitution of damage (where physical damage has been caused);
- restorative justice (e.g. a letter of apology) where the Reporting Party requests it and/ or
- temporary or permanent exclusion from the use of specific **ONCAMPUS** facilities or services
- A recommendation that the Group Chief Operating Officer permanently excludes the student from the programme of study. The student would be withdrawn with the required notification to the appropriate visa authority.

13.7 The Responding Party will be informed of the sanction(s) in writing and, where appropriate, in person. The letter will set out the rationale for the decision. The Responding Party will be informed that they may appeal on specified grounds.

13.8 The Reporting Party will be informed of the outcome via their SLO, wherever possible in person. A letter will be sent to the Reporting Party setting out the rationale for the decision and informing them that they may appeal the decision on specified grounds.

13.9 If no case to answer is identified, the Case Team may make suggestions to the Responding Party regarding actions they might undertake, such as seeking support via wellbeing support services or attending awareness sessions. If it is appropriate and necessary to make such suggestions, they will be communicated to the Responding Party via their SLO and an outcome letter will be issued. The Reporting Party will be informed of the Case Team's decision via their SLO, an outcome letter will be issued, and they will be informed that if they wish they may appeal the decision on specified grounds. Both parties will be informed of the ongoing support available to them. **ONCAMPUS** will prioritise its duty of care to both parties to enable them to continue their studies and to minimise any ongoing distress.

14 Right to Review

14.1 If the Reporting Party or the Responding Party is dissatisfied with the outcome of the case, or if they believe the matter has not been handled fairly in accordance with this Procedure, they may request a review in writing. Support is available via the SLOs regarding the appeals process and grounds for appeal.

14.2 Both parties may request a review on the following grounds:

- a. that there was a material irregularity or failure in procedure in the conduct of the original investigation;
- b. that there appears to be evidence of prejudice or of bias during the original investigation;
- c. that relevant new evidence has come to light which the appellant had a good reason for being unable to present to the IO prior to or during the original investigation which may make a material difference to the sanction applied.

14.3 If both parties appeal, the appeals will be considered simultaneously.

14.4 The Reporting Party should submit their request for review of their case as described in Stage 3, Final Review by Reviewing Officer, **ONCAMPUS** Students Complaints Policy.

14.5 The Responding Party should submit their request for a review of their case as described in the Appeals section, **ONCAMPUS** Disciplinary Policy.

14.6 In either case, the relevant Party must normally submit their request for review to the **ONCAMPUS** Student Complaints Team within one month of the conclusion of the case (as described in the Student Complaints Policy for the Reporting Party, and the Disciplinary Policy for the Responding Party).

14.7 The review request should include details of why the Party is dissatisfied, in accordance with the grounds of appeal as specified under the Complaints Procedure (in the Reporting Party's case) or the Disciplinary Procedure (in the Responding Party's case).

14.8 The review request(s) will be reviewed by the Chief Academic Officer or a relevant appointed senior member of staff ("Reviewing Officer") who has not had previous involvement in the case. The Reviewing Officer may be asked to review the way the process has been handled. The Reviewing Officer will review the appeal and exercise discretion and judgement as to whether further investigation is necessary. The Reviewing Officer will acknowledge receipt of the appeal within 5 working days of receipt. Indicative timescales for this stage are that a response will be sent within 3

weeks of receipt of complaint form by the Student Complaints Team. If this is not possible, an alternative timescale will be issued to the student.

14.9 The appeal will normally take the form of a paper review unless the Reviewing Officer decides that a new hearing is required. In all cases the detailed reasons for the first decision will be made available, and the Chair of the Case Team panel invited to assist the Reviewing Officer. If required, the Reviewing Officer may also consult the original IO, and will notify the members of the original panel if the decision is significantly changed.

14.10 If there are no grounds for appeal, both parties will be informed via their SLOs, a Completion of Procedures (COP) letter will be issued to the Responding and/or Reporting Party, and both parties will be signposted to ongoing wellbeing support. Upon completion of the appeal, if either Party remain dissatisfied they will receive a COP letter which will enable them to refer their case to the OIA for review.

14.11 Should a hearing be determined necessary, the appellant(s) will have the opportunity to address the Reviewing Officer.

14.12 The Reviewing Officer has power to confirm, set aside or vary a finding or decision of the Case Team or to set aside or vary any penalty imposed by the Case Team. This may include increasing the original penalty imposed.

14.13 The Party who requested the review will be informed of the outcome of the review in accordance with the arrangements and timescales set out in the relevant procedure. The decision of the review will be final.

14.14 The other Party will not be informed that a review request was made, its details, or its outcome unless the review is upheld and any further action materially affects the other Party.

14.15 If the Responding Party is dissatisfied with the outcome of their appeal, a Completion of Procedures (COP) letter will be issued.

14.16 For students enrolled at a study centre in England, the COP letter will enable the student to refer their case to the Office of the Independent Adjudicator (OIA) for review should they wish to do so.

15. Office of the Independent Adjudicator for Higher Education (England centres only)

Please note: the Office for the Adjudicator for Higher Education applies only to students who are enrolled at a study centre in England.

The Office of the Independent Adjudicator for Higher Education (OIA) runs an independent scheme to review student complaints. **ONCAMPUS** is a member of this scheme. If you are unhappy with the outcome you may be able to ask the OIA to review your case. You can find more information about making a complaint to the OIA, what it can and can't look at and what it can do to put things right here: <https://www.oiahe.org.uk/students>.

You normally need to have completed the **ONCAMPUS** Complaints and Disciplinary Procedures before you complain to the OIA. **ONCAMPUS** will send you a letter called a "Completion of Procedures Letter" when you have reached the end of our processes and there are no further steps you can take internally. If your complaint and/or appeal is not upheld, we will issue you with a Completion of Procedures Letter automatically. If your complaint and/or appeal is upheld or partly upheld you can ask for a Completion of Procedures Letter if you want one. You can find more

information about Completion of Procedures Letters and when you should expect to receive one in the **ONCAMPUS** Complaints Policy.

APPENDIX C

ONCAMPUS Reporting Sexual Misconduct and Harassment

Use this form if you are an ONCAMPUS student who has experienced any kind of harassment or sexual misconduct where the person causing the harassment or sexual misconduct is an **ONCAMPUS** student.

If you have experienced harassment or sexual misconduct and the person causing this is not an **ONCAMPUS** student, please speak with your Head of Student Services who will be able to advise on the actions you can take.

What is Sexual Misconduct?

Sexual misconduct and harassment covers a broad range of inappropriate, unwanted behaviour. It is defined as any unwanted conduct of a sexual nature which occurred in person, or by telephone, letter, text, email or other electronic and/or social media. It includes:

- Engaging, or attempting to engage in a sexual act with an individual without their 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
- Recording and/or sharing intimate images or recordings of another person without their consent.

What is harassment?

Harassment means single or repeated incidents involving unwanted and unwelcomed words, conduct or behaviour of a sexual nature that has the purpose of creating an intimidating, embarrassing, hostile, degrading, humiliating or offensive environment for the recipient.

Harassment may be verbal, psychological, or physical, in person or via a virtual platform, or through other methods of contact. It can include bullying or discriminatory behaviour, including offensive comments, verbal abuse and non-verbal actions.

Before completing this form:

- read the Student Sexual Misconduct Policy
- read the Student Complaint Policy
- seek support and advice from the Head of Student Services in your centre. They will help you understand the process and make sure you receive the right support.

Things to remember when submitting your form:

- Email your form to your Head of Student Services
- If you need any help with the form, please speak with your Head of Student Services

What happens next:

- Your Head of Student Services will get in touch with you. They will support you and help you understand the process.

Your contact information

First/Given name(s)	
Surname/Family name	
ONCAMPUS Centre	
Email	
Student ID Number	

Please give the name(s) of the student(s) you are reporting:

1. Please provide the details of the sexual misconduct or harassment.

- Try and include dates and factual details where possible
- Please be aware that if an investigation takes place some of this information may be shared with the person/people you have reported
- Please provide as much detail as you wish
- There will be other opportunities for you to provide further information

2. State what action (if any) has taken place since the events you have described, for example, have you had any contact with the people involved? Have you reported the matter to someone?

3. Please provide any other information that you would like to make ONCAMPUS aware of.
There is no need to complete this box and there will be other opportunities for you to provide further information.

4. Statement by student (please tick to indicate your agreement with each statement):

<ul style="list-style-type: none"> I have read the Student Sexual Misconduct Policy 	
<ul style="list-style-type: none"> I understand that the ONCAMPUS may need to handle personal details about me, which could include sensitive information, in order to deal with my report effectively. This will include the Student Complaints Team and an investigating officer viewing the information I have provided. I am aware that no information about this report will be recorded on my student record and my information will be handled in line with the Policy on the use of Personal Information. 	
<ul style="list-style-type: none"> I understand that ONCAMPUS may provide some details of the report to the person(s) I have reported. I understand that I will be informed of what information the person(s) will receive and when this will take place. 	
<ul style="list-style-type: none"> I confirm that the information I have given on this form is true, correct and complete, to the best of my knowledge. 	
<p>Signed (typed signature accepted): _____</p> <p>Date: _____</p>	

APPENDIX D – Glossary of Terms

Alcohol and/or Drug Use	The law states that someone must have the freedom and capacity to make the choice to consent, which means that they can't be unconscious/passed out, asleep or incapacitated through drugs/alcohol. Incapacitation arising from alcohol or drug consumption should be evaluated on the basis of how the alcohol/drugs have affected the individual; signs of incapacitation may include, but are not limited to, one or more of the following: slurred speech, unsteady gait, bloodshot eyes, dilated pupils, unusual behaviour, blacking out, a lack of full control over physical movements, a lack of awareness of circumstances or surroundings, and/or an inability to communicate effectively. Intoxication is never a defence for committing an act of sexual violence and misconduct, or for failing to obtain consent. If there is any doubt as to the level or extent of one's own or the other individual's incapacitation, the safest approach is to not engage in a sexual act.
Responding Party	means the ONCAMPUS student who is Responding in a Reported Incident(s).
CLET	Central Leadership Emergency Team: case management conference to consider a report.
Coercion or Force	includes any physical or emotional harm or threat of physical or emotional harm which would reasonably place an individual in fear of immediate or future harm, with the result that the individual is compelled to engage in a sexual act.
Complaints Procedure	means the ONCAMPUS Students Complaints Policy
Complicity	is any act that knowingly helps, promotes, or encourages any form of sexual violence and misconduct by another individual.
Consent	<p>means actively agreeing to participate in a sexual activity where the individual has both the freedom and capacity to make that decision. Sexual activity without consent is rape or sexual assault. Consent cannot be assumed on the basis of previous sexual activity with someone or previously given consent, or from the absence of verbal or physical resistance. Consent should be established each time a new sexual activity takes place. In order to fully establish consent in a sexual relationship it must be:</p> <ul style="list-style-type: none"> • Freely given – consent is a choice and for consent to be present, the individual has to freely engage in the sexual act. Consent is not present when submission by an unwilling participant results from the exploitation of power, or coercion or force. • Reversible – anyone can change their mind at any point of the sexual activity. • Informed – you can only fully consent to something if you know exactly what it is you are consenting to. • Enthusiastic – sex should be enjoyable for all involved in the activity.

	<ul style="list-style-type: none"> • Specific – consenting to one thing is not an assumption that someone has consented to more.
Disciplinary Procedure	means the ONCAMPUS Student Disciplinary Policy
Disclosure	means a disclosure of an Incident under this procedure.
IRM	means an initial review meeting to consider a report.
IO	means Investigating Officer.
LSM	means the Lead for Sexual Misconduct. This is a member of the local centre team who has received training for this purpose.
Policy	means the Sexual Misconduct Policy.
Procedure	means this Sexual Misconduct Procedure.
Rape	is a criminal offence, which involves the penetration of the vagina, anus or mouth, by a penis, without consent. Anyone can be raped, but rape can only be committed by someone with a penis.
Report	means a formal report of a Reported Incident(s) which is taken forward as a formal investigation by the ONCAMPUS Student Cases Team.
Reported Incident(s)	means an incident of Sexual Misconduct
Reporting Party	means the party who reports a Reported Incident(s).
Retaliation	may constitute any words or actions, including intimidation, threats, or coercion, made in response to disclosures or reports of sexual violence and misconduct, by any individual including both the Reported Party and the Reporting Party, as well as witnesses, friends, or relatives.
SARC	means a Sexual Assault Referral Centre, an external organisation which provides independent support and advice on incidents of sexual misconduct.
Sexual Assault	a criminal offence, which can be committed by anyone and requires touching without consent where the touching is sexual.
Sexual Assault by Penetration	an offence and can be committed by anyone; it involves the penetration of the vagina or anus by a body part (such as fingers or tongue) or anything else (such as a bottle or sex toy) without consent.
Sexual Harassment	unwanted and unwelcomed words, conduct or behaviour of a sexual nature that has the purpose of creating an intimidating, embarrassing, hostile, degrading, humiliating or offensive environment for the recipient. It is a misuse of personal or institutional power and often based on a person's gender, although it is rarely about sexual desire. For the purpose of this policy, whether the harasser intended to be offensive or not is irrelevant and it is up to the recipient to decide the limit of acceptable behaviour as described by this policy. Sexual harassment can range from being obviously offensive to anyone, to subtler behaviour that is less obvious to any parties involved. Sexual harassment can include but is not limited to catcalling, following, making unnecessary and unwanted physical contact, sexual jokes and comments, giving unwelcome personal gifts, wolf-whistling, leering, derogatory comments, unwelcome comments about a person's body or clothing, asking unwelcome questions about a person's sex life and/or

	sexuality, engaging in unwelcome sexual propositions, invitations and flirtation, making somebody feel uncomfortable through displaying or sharing sexual material. Sexual harassment can occur in person, via email, visual images, social media, text messages, telephone and image based sexual abuse such as revenge porn and 'upskirting'.
Sexual Misconduct	means any acts, behaviours, or conduct which amount to sexual misconduct, examples of which are set out at paragraphs 13.3 and 13.4 of this Procedure. Sexual misconduct can include harassment, assault, grooming, bullying, sexual invitations, comments and non-verbal communication with sexual content or overtones, creation of uncomfortable atmospheres and promised resources in exchange for sexual access. Sexual misconduct may involve a dynamic of power imbalance and can raise issues of unequal relationships, consent, the prevention of equal access to education, opportunities and career progression. This is not intended to be an exhaustive list.
Sexual Violence	is any behaviour of a sexual nature, that is unwanted and takes place without consent or understanding. It is an umbrella term used to refer to and include the different sexual offences including, but not limited to: rape, sexual assault, child sexual abuse, sexual harassment, coercion, gaslighting, rape and assault within marriage/relationships, female genital mutilation, trafficking and sexual exploitation, forced marriage and so called honour based violence and abuse, which can also be forms of domestic abuse. Sexual violence can be psychological and/or physical.
Student	means any student formally registered on a programme of study with ONCAMPUS
Supporter	means a person who is there to provide moral support, to support a student in preparing for the meeting, and to support the student with asking and answering questions during the meeting. A student is expected to speak on their own behalf, there is no automatic right for a supporter to speak on a student's behalf, and it is at the IO's discretion as to whether a supporter is permitted to address a meeting. Should a supporter act outside those actions described, the IO will suspend the meeting and ask the supporter to leave; in the event that the student is unable to continue the meeting without their supporter being present, the meeting will continue in the student's absence based on any documentation provided and any verbal representations received up to that point.
Vexatious Reporting	involves the creation of persistent, unwarranted reports of sexual violence and misconduct, or a refusal to accept any reasonable decisions arising from the application of the accompanying procedure to this Policy.
Malicious Reporting	occurs when an individual makes allegations of sexual violence and misconduct which they know to lack a basis in fact.