

Sexual Misconduct: definition for University and Student Union Joint Action Plan

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'Sexual Misconduct'

2. What this means:

Sexual misconduct is any conduct that is sexual, unwanted and causes distress, or that otherwise constitutes harassment, bullying or victimisation.

3. Definitions:

- 3.1 Relevant 'conduct' includes contact behaviour (whether directly on the skin or through clothes) and non-contact behaviour (e.g. exposure, invasions of privacy or causing another to engage in sexual acts). It also includes communication of any kind, whether directed at or concerning the person making the complaint (and includes both direct and indirect communication via social media, email, text or other messaging service).
- 3.2 When considering whether the relevant conduct was 'sexual', the Non-Academic Misconduct Committee ('the committee') will take into account and give due weight to the experience and viewpoint of the person making the complaint.
- 3.3 In considering whether the relevant 'conduct' constitutes *misconduct*, the committee will consider whether it was "unwanted and causes distress, or that otherwise constitutes harassment, bullying or victimisation"; in this respect, the committee will take into account and give due weight to the experience and viewpoint of the person making the complaint and also the university's [*Dignity at work and study policy*](#).
- 3.4 Questions about whether the person accused of 'sexual misconduct' was *mistaken* as to any relevant matter (i.e. whether the conduct in question was unwanted or caused distress, or whether it amounted to sexual conduct), how reasonable or otherwise such a mistake might have been, and whether there are any other plausible explanations for what happened, are matters on which the committee will offer that person an opportunity to explain. In accordance with university policy, the committee will take what they say into account, and will also be prepared to hear statements from anyone else who witnessed the relevant incident(s). All of these will be accorded due weight.
- 3.5 'Sexual misconduct' does *not necessarily imply conduct that is against the law*. Therefore the relevant conduct will be assessed in the first place in terms of this policy, and any measures put in place will be part of the university's broader structures for supporting students and handling non-academic misconduct. However, where the committee considers that the 'conduct' in question may also have been a *criminal offence*, the university will (after due consideration of the wishes of the person making the complaint and a risk assessment) consider whether the matter should be referred to the police.
- 3.6 On all relevant matters, the committee will come to its view on a balance of probabilities (i.e. whether it is more likely than not that any particular aspect of a case of sexual misconduct is established).