



Policies and Procedures

Code: QA606

Title: **Student Sexual Harassment and Harassment Policy**

Date: 15 February 2018 with additional amendments approved 7 April 2022

Approval: Academic Council

1.0 POLICY STATEMENT

The University encourages the promotion of a learning, working and social environment where all staff and students work positively and harmoniously together. All staff and students have the right to be treated with dignity and respect in their day-to-day dealings in the University. University of Galway believes that the University environment should give all staff and students the freedom to do their work, research and study without having to suffer harassment or sexual harassment in the University environment.

This policy exists as University of Galway is of the view that harassment or sexual harassment is a particularly insidious form of discrimination. All staff and students are to be aware that harassment and sexual harassment are unacceptable within the University and can be grounds for disciplinary action.

All allegations of harassment or sexual harassment will be dealt with in a fair and sensitive manner, and as confidentially as is possible.

We encourage students to come forward to seek support and assistance in relation to issues of harassment and sexual harassment, so that we can work with you to resolve these issues. You can be assured that we will act sensitively, and disclosures will be carefully and thoughtfully addressed through a process that is transparent and clearly communicated to all individuals involved. Issues of a sexual misconduct nature may potentially constitute a criminal offence. Employees or students can contact the Gardaí directly or through University of Galway's dedicated Garda Liaison Officer who can be contacted at 091-538079.

All individuals involved in a harassment or sexual harassment issue will be supported in a trauma informed sensitive manner, and as confidentially as is possible.

2.0 AIM OF THIS POLICY

The aim of this policy is to eliminate all forms of harassment or sexual harassment by both students and staff, to raise awareness of the effects of such behaviour on individuals in the working and learning environment and to promote a climate in which students feel able to raise complaints of harassment or sexual harassment without fear of victimisation. It is also the aim of this policy to provide a procedure to address complaints in this regard, to safeguard against the victimisation of complainants, persons who give evidence in proceedings or otherwise support a complainant¹.

3.0 RESPONSIBILITY OF PARTIES GENERALLY

It is the responsibility of Heads of Schools and other units to lead by example by treating all staff and students with dignity and respect. The promotion of awareness of this policy and associated procedures will be the responsibility of Heads of Schools and other units, who will be assisted in this by the Offices of the Dean of Students (or designated authority) and the Vice President for Equality, Diversity and Inclusion through training and awareness activities. It is the responsibility of all members of staff to be vigilant for

¹ Throughout this policy, an individual who feels that they have been harassed or otherwise aggrieved is referred to as the "complainant" and the student against whom these allegations have been made is referred to as the "respondent".

signs of harassment and to take action, where possible, before a problem escalates. All staff and students can contribute to achieving an environment free of harassment and sexual harassment through cooperation with University, staff trade union and Student Union strategies.

This policy will be communicated to all students and staff through the University of Galway website and other fora for student information.

A complainant's first point of contact for information is the Dean of Students (see Appendix 3).

4.0 DEFINING HARASSMENT AND SEXUAL HARASSMENT

4.1 Harassment

Harassment is any form of unwanted verbal, non-verbal or physical conduct related to any of the discriminatory grounds (other than gender) which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. Those grounds are age, family status, civil status, sexual orientation, nationality, religious belief, disability, or membership of the traveller community.

The University acknowledges that harassment of a non-sexual nature can arise due to an individual's gender (including gender identity) and recognises gender, and gender identity, as an additional discriminatory ground. The protection of the Policy extends to situations where a complainant does not have the relevant characteristic related to the discriminatory ground but the alleged perpetrator believes that he/she has that characteristic.

It is important to note that intention to harass is not required in order for an action to be considered harassment; nor, does the activity have to be repeated in order for it to be considered harassment. Furthermore, it is not necessary for the victim of harassment to state that they consider the activity harassment in order for it to be considered so.

A single incident may constitute harassment.

The following list of examples is illustrative rather than exhaustive:

- Verbal harassment – jokes, comments, ridicule or songs
- Written harassment – including social media, text messages, emails or notices
- Physical harassment – jostling, shoving or any form of assault
- Intimidatory harassment – gestures, stalking, posturing or threatening poses
- Visual displays such as posters, emblems or badges

4.2 Sexual harassment

Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, which has the purpose, or effect of violating a person's dignity and sexual integrity, creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. For the avoidance of doubt, sexual harassment also includes unwanted conduct (as described above) related to gender, and sexual harassment between those of the same sex.

A single incident may constitute sexual harassment.

Examples of Sexual Harassment (not an exhaustive list)

- Physical – Unnecessary touching, pinching, or brushing against another; assault; coercive sexual intercourse; indecent exposure.

- Verbal – Unwelcome sexual advances, demands for sexual favours, suggestive remarks, innuendoes or lewd comments.
- Non-verbal – Displays of pornographic or sexually suggestive pictures and objects; leering, whistling or sexually suggestive gestures.

4.3 Consent

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

Consent can be withdrawn at any time, and just because someone has previously given consent, does not preclude that person from withdrawing consent. Any failure or omission on the part of a person to offer resistance to an act does not of itself constitute consent to that act.

4.4 Effects of Harassment or Sexual Harassment

Both Harassment and Sexual Harassment have the effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. The impact of harassment and sexual harassment can be devastating. It can affect not only the health, social and personal life of victims, but can also lead to significant adverse professional and educational outcomes.

4.5 Scope of conduct the subject of this policy

This policy applies to staff, students and third party contractors within the control of the University in the conduct of activities relating to University operations and programmes, and University-related activities, on University property and off. This section will not preclude the authorized adjudicators/investigators or otherwise from concluding that the actions impugned are too remote from University life to fall under this policy.

Complaints should be made as promptly as possible following an alleged occurrence of harassment or sexual harassment. In considering any complaint, regard will be had by the University for the statutory time limits that apply to such complaints along with any other reasonable cause while considering all parties rights to fair procedures and due process.

5.0 HARASSMENT AND THE CONTENT OR PRESENTATION OF TEACHING MATERIALS, ARTISTIC EXHIBITION OR PERFORMANCE

It is recognised that those teaching certain subjects such as languages and literature, business, law, biological or social sciences and medicine must occasionally present and discuss material relating to sex and sexuality, and that students may sometimes find this material embarrassing or upsetting. While teachers are under an obligation not to be gratuitously offensive, they must be protected from unfair allegations of harassment based on the subject matter being discussed. Likewise, it is important that members of the University community have access to art exhibitions, dramatic and cinematic productions, and discussion and debate on a wide range of political, cultural and social issues. However, it should be noted that the material *per se* may not be offensive, but the manner in which it is discussed may be. University policy does not permit the gratuitous use of pornographic or other offensive material.

6.0 MONITORING AND REVIEW

Reported incidents of Harassment and Sexual Harassment will be monitored to evaluate the effectiveness of the Harassment and Sexual Harassment Policy. The policy will be reviewed in line with relevant legislative developments as appropriate. The process for reviewing the policy will also include consultation and feedback from students and staff members.

7.0 PROCEDURE FOR MAKING A COMPLAINT

7.1 Scope

The procedures set out in this document are to be followed where:

- A student feels themselves to be a victim of harassment or sexual harassment by another student(s) or by a member(s) of staff
- A student wishes to make a complaint about an employee of a third party contractor contracted by University of Galway or its service companies, students are to make a complaint in writing to the Dean of Students (or designated authority) who will decide on the procedure to be followed, or otherwise how the complaint is to be dealt with.

In all cases, subject to the outcome of the procedures, there will be a presumption of innocence for the respondent(s).

7.2 What to do if you consider yourself to be the victim of Harassment or Sexual Harassment

Complainants are advised to utilize the following procedures:

The Informal Procedure (as set out at Section 7.3), or

The Formal Procedure (as set out at Section 7.4).

It is recognised that it may not always be practical to use the informal procedure – especially in relation to allegations of sexual harassment. Therefore, a complainant may decide, for whatever reason, to bypass the informal procedure. Choosing not to use the informal procedure will not reflect negatively on a complainant during the formal procedure.

Potential complainants and respondents are reminded that all information concerning allegations of harassment or victimization (whether made under this policy or any other) will be treated in confidence by all parties, as far as is possible, in order to protect all parties involved. Students and staff are to be aware that breaches of confidentiality may give rise to action being taken under the University's Staff or Student disciplinary policies.

7.3 Informal Procedure

The University supports the resolution of complaints, as far as is possible and appropriate, through informal processes. In many cases, the problem of harassment can be resolved informally. The key principle to be maintained is that individuals reporting allegations of sexual misconduct, with the appropriate supports, should be the decision maker around whatever actions should be taken and the possible routes and actions towards informal resolution should be explored when they are engaging with University and/or external supports. Complainants who believe they are being subjected to harassment and wish to attempt to resolve it informally should explain the following clearly to the respondent(s):

- Details of the behaviour in question.
- The fact that it is unwelcome and offensive to them.
- The harmful effects it is having on them.

- That it is contrary to University policy.

To facilitate this, the complainant should keep a record of events as they occur; what happened, dates, times, places, witnesses (if any), the respondent(s)' response and the impact of this behaviour.

Where students find it difficult to communicate directly with the respondent(s), they should be accompanied by a third party, for example a friend, Students' Union representative such as the VP for Welfare and Equality, or a Contact Person. This person's role will be to provide moral support to the complainant while they are making their issues known to the respondent(s). It is not their role to make the complaint on behalf of the complainant; however, where it is evident that the complainant is having difficulty in presenting their issues the person accompanying them will be free to assist in the presentation of the complaint. The respondent(s) should be made aware at the time the meeting is being arranged that the complainant will be accompanied at this meeting. The respondent(s) also has the right to be accompanied by a third party. Should they wish to have a person with them at the meeting, they should make the complainant aware of this at the time the meeting is being arranged.

If at this point the parties come to an agreement or solution, the remedial actions should be clearly identified and agreed to by both parties. This will allow both parties to monitor the situation going forward. Both parties are encouraged to agree notes in order to remove ambiguity later. The objective of the informal procedure is to allow both parties agree a framework where they will be able to continue to interact together in an appropriate manner.

If this fails to resolve the issue or if either party wishes to have the matter dealt with formally, they are entitled to refer the issue for processing through the formal procedure.

7.4 Formal Procedure

This procedure is to be followed where:

- If following the informal route and there is no resolution; or,
- At any point during the informal procedure the complainant wishes to do so; or,
- The matter is too serious to be resolved in an informal way.

To begin the formal procedure, a written complaint should be addressed to the Dean of Students (or designated authority). The Dean of Students (or designated authority) will then arrange for the investigation of the complaint as set out in the Student Code of Conduct.

7.4.1 Content of Written Complaint

In the letter of complaint, the complainant should set out as clearly and briefly as possible:

- The nature of the behaviour they are concerned about;
- Precise details of alleged incidents of harassment or sexual harassment
- The effect this behaviour has on them;
- Dates of, and the identity of any witnesses to, any incidents complained about, together with any documentary evidence of same;
- Details of any attempts that have been made to resolve the difficulties;
- If appropriate, the outcome/resolution they are seeking.

To assist students in setting out their complaint, there is a template complaint form set out at Appendix 2, which may be used if a student wishes to do so. This complaint form is available in soft copy on the University's website, the Dean of Students (or designated authority) Office and from the Students' Union.

7.5 Victimisation

Where an individual makes a complaint in good faith, gives evidence in proceedings or gives notice of intention to do so, they will not be victimised or subject to sanction. The University will not tolerate or permit any form of retaliatory action (including the threat of retaliatory action), penalisation, harassment or victimisation arising as a result of a complaint and will take all appropriate action to support any student who raises a complaint.

Victimisation is regarded as gross misconduct, and students should note that any such action may result in formal investigation, a disciplinary hearing and serious sanction.

7.6 Counselling Service

It is important that those involved seek appropriate support. Free and confidential help is provided by the Counselling Service details available in Appendix 3.

7.7 Malicious and/or Vexatious complaints

A complainant will not be victimised or subjected to any form of sanction for making a complaint in good faith, nor will any individual be victimised or subjected to sanctions for giving evidence in good faith in proceedings or giving notice of their intention to do so.

All complaints of harassment will be considered within the context of the right of each individual to be treated with dignity and fairness and in the context of the rights of all parties to fair procedure and due process. However, a formal complaint of harassment or sexual harassment should never be made on a malicious or vexatious basis and the possible making of a complaint should never be used as a threat against an individual. A malicious complaint can be described as an allegation being made without foundation and with malicious intent, where a person knowingly or without regard to whether it is true or not, accuses another person of allegedly harassing or sexually harassing them or others.

Where, following investigation under the Formal Procedure it is concluded that complaints were made or threatened to be made on a malicious and/or vexatious basis, the complainant's conduct may be investigated under the University's Staff or Student Disciplinary policies.

It should be noted, that where a complaint is not upheld under the formal complaints process, this does not mean that the complaint is malicious. The application of this provision should not in any way deter students from bringing forward legitimate complaints.

8.0 THIS POLICY AND CRIMINAL INVESTIGATIONS

Where the University becomes aware of any criminal investigation into matters, which form the subject matter of a complaint, the University, will seek to act in the best interests of all parties and shall utilize its own discretion in its handling of any internal policies and procedures. The aim of the University shall be to balance the principles of natural justice, the health and safety of staff and students, the integrity of any possible criminal investigation, and the right to the good name and presumption of innocence of all parties concerned.

9.0 CONTACT PERSONS

Contact Persons will be made available to students to assist in navigating the procedures set out in this document. Their role is to provide information and emotional support in a confidential, non-judgmental and off-the-record manner to any student involved in this process. A description of their role is more fully set out at Appendix 1 below. Some other points of contact for information include University of Galway's report and support Speak Out tool and the SU VP for Welfare and Equality.

10.0 SUPPORT FOR THOSE EXPERIENCING SEXUAL HARASSMENT

The University recognises the particular difficulties raised for students in the context of sexual harassment. Support is available for students from a number of sources both within the University and from outside agencies in this regard.

Please see Appendix 3 for a list of groups and organisations who may be able to provide support for those who have or are experiencing sexual harassment.

11.0 Responsibilities

Name

Dean of Students (or designated authority)

Responsibility

As policy owner, to ensure that reviews of this policy occur at least once every 5 years and that best practice is reflected in any revisions.

Appendix 1: Contact Persons and their Role

Role of the Contact Person:

1. The role of the Contact Person is to provide information and emotional support in a confidential, non-judgmental and off-the-record discussion(s) to any student who feels that s/he is being subjected to bullying, harassment or sexual harassment, or to any student against whom a complaint of harassment or sexual harassment has been made. In doing so, the Contact Person is expected to be accessible, supportive and available and to listen, discuss and provide information to the complainant.
2. The Contact Person only offers emotional support and advice for issues relating to harassment or sexual harassment, applicable only to areas of University operations and/or programmes. The role does not extend to any other forms of grievances or personal problems, nor should the Contact Person engage in any investigations related to the issues raised to him/her.
3. The objective for the Contact Person is to help the student to clarify what s/he is experiencing and to empower the student to decide what course of action, if any, s/he may wish to take. The Contact Person may not act as an advocate or representative on behalf of the person s/he is supporting nor can s/he tell the person what course of action to take.
4. A Contact Person may not approach the respondent/complainant on behalf of the person s/he is supporting. They may, however, accompany the person s/he is supporting to meetings with the other party, on request of the person s/he is supporting.
5. The Contact Person may offer support to a student who feels that s/he is being subjected to harassment or sexual harassment or a student against whom a complaint of bullying, harassment or sexual harassment has been made but not both. If a Contact Person is approached by both parties, s/he should support the first person who requests support and refer the second person to another Contact Person.
6. The Contact Person, who will not be requested to disclose information to a third party, will treat all discussions as completely confidential. However, in a situation of exceptional circumstance regarding safety, including suicidal intent, sexual abuse and/or threats to the life of others, the Equality Manager should be contacted so that appropriate professional assistance can be sought. All individuals who make contact with a Contact Person will be made aware of these guiding principles of confidentiality.

Appendix 2: Student Complaint Form



Student Complaint Form for Complaints of Harassment and/or Sexual Harassment

Please read the relevant Student Policy or Policies prior to completing this form¹.

¹ Student Sexual Harassment and Harassment Policy (QA606), Student Anti-Bullying Policy (QA600) and/or the Student Code of Conduct (QA616).

Students are advised that all information provided in the course of any investigation or procedure arising from a complaint will be dealt with sensitively, fairly and, as far as is possible, in confidence.

Please write in BLOCK LETTERS

STUDENT ID NUMBER:

COURSE AND YEAR:

SURNAME:

FORENAME(S):

ADDRESS:

EMAIL ADDRESS:

MOBILE NO:

COMPLAINT AGAINST (COLLEGE, SCHOOL, SERVICE, UNIT OR INDIVIDUAL):

STATE THE NATURE OF COMPLAINT INCLUDING A DESCRIPTION OF WHAT HAS HAPPENED TO GIVE RISE TO THE COMPLAINT, PRECISE DETAILS OF ALLEGED INCIDENTS, TO INCLUDE DATES, TIME AND OTHER DETAILS. ATTACH SEPARATE SHEET IF NECESSARY.

HAVE YOU ALREADY RAISED THE CONCERNS INFORMALLY IN THE FIRST INSTANCE?
YES / NO (CIRCLE).
IF YES, PLEASE STATE STAFF DEALT WITH AND DATE CONCERNS RAISED.
IF APPLICABLE LIST ANY ADDITIONAL DOCUMENTS ATTACHED.
Suggested Action or Remedy (Optional)

Statement by Student

I wish this complaint to be considered under the Formal Procedure as set out in the Student Anti-Bullying Policy, Harassment and Sexual Harassment Policy and Code of Conduct as applicable. I declare that the statements made are to the best of my knowledge true.

Student's Signature..... **Date**.....

Completed Form to be returned to:

Dean of Students (or designated authority), disciplinary.officer@nuigalway.ie.

Appendix 3: Supports For Students Experiencing Sexual Harassment

University of Galway Health Unit

The doctors and nurses at the Student Health Unit are available to help with any sexual health issues.

091-492604
(Mon-Fri 9am-5pm)

087-2623997
(Out of hours)

Students' Union

The Welfare Officer and Equality Officer can offer you information, advice and support.

091-524810 or
086-3853659 (Welfare Officer)

Mill St. Garda Station

University of Galway has a dedicated Garda Liaison Officer who is available to speak to students with regard to any problems that they might have.

091-538079

University of Galway Counselling

Professional counselling services are available to all University of Galway students free of charge.

091-492484 or
087- 6644299

Dean of Students (or designated authority)

The Dean of Students (or designated authority) can advise you on the campus procedure for reporting and making a complaint about sexual harassment or assault.

091-495367

Galway Rape Crisis Centre

GRCC operates a free telephone helpline and face-to-face professional counselling service.

www.galwayrcc.org
or 1800 355 355

Galway Sexual Assault Treatment Unit

091-765751 or
087-6338118
(Mon-Fri 8am-4pm)